

Litchfield law school,
" Litchfield, Conn.

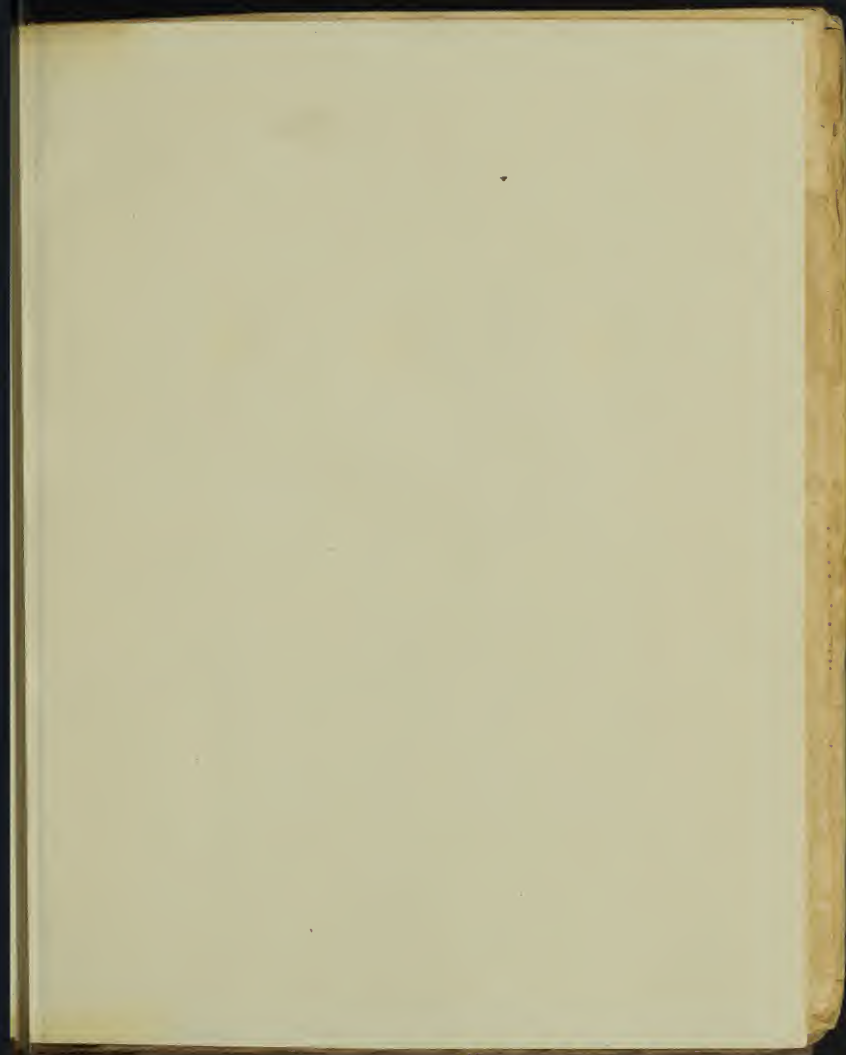
YALE LAW LIBRARY

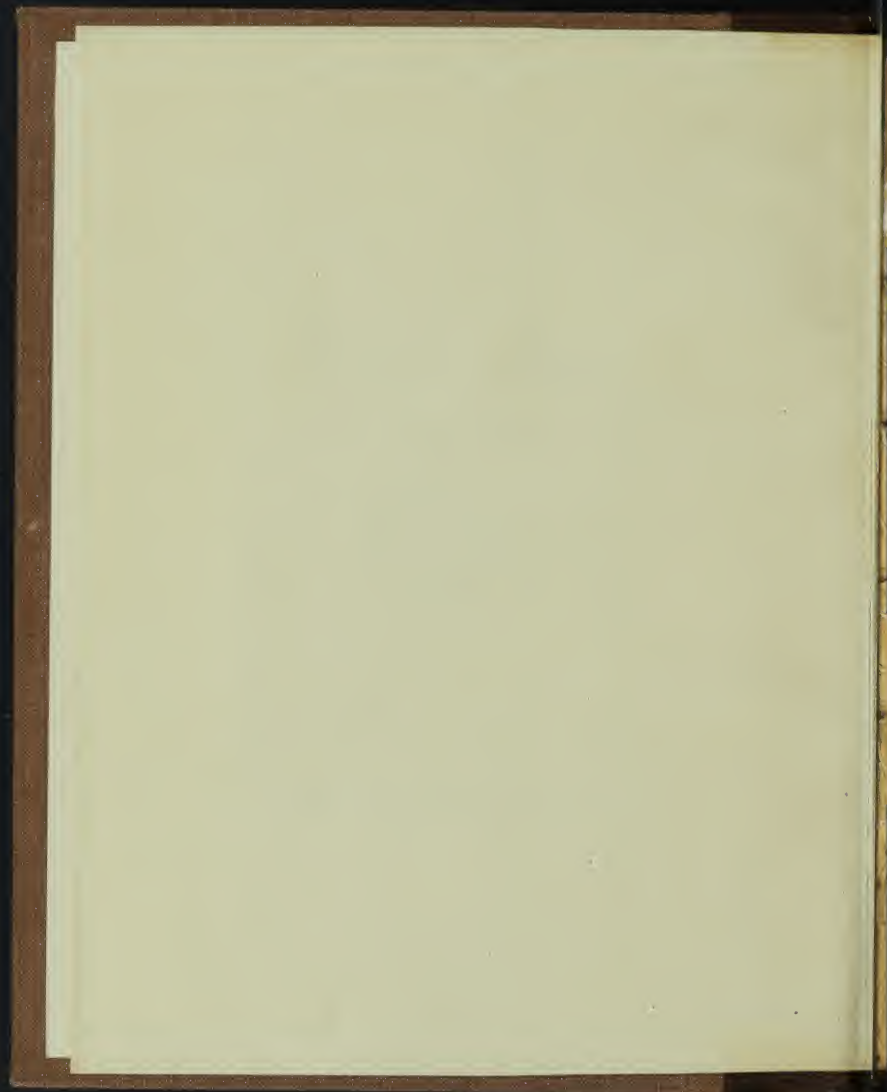


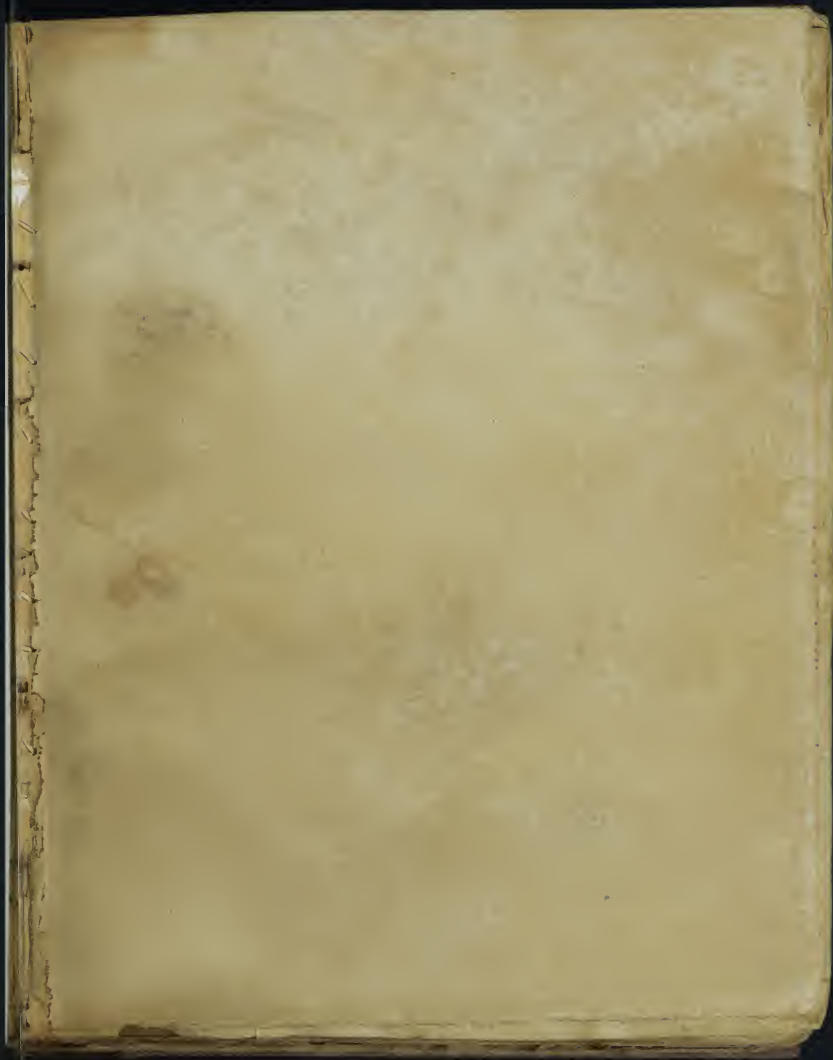
Mss B
L71
1807

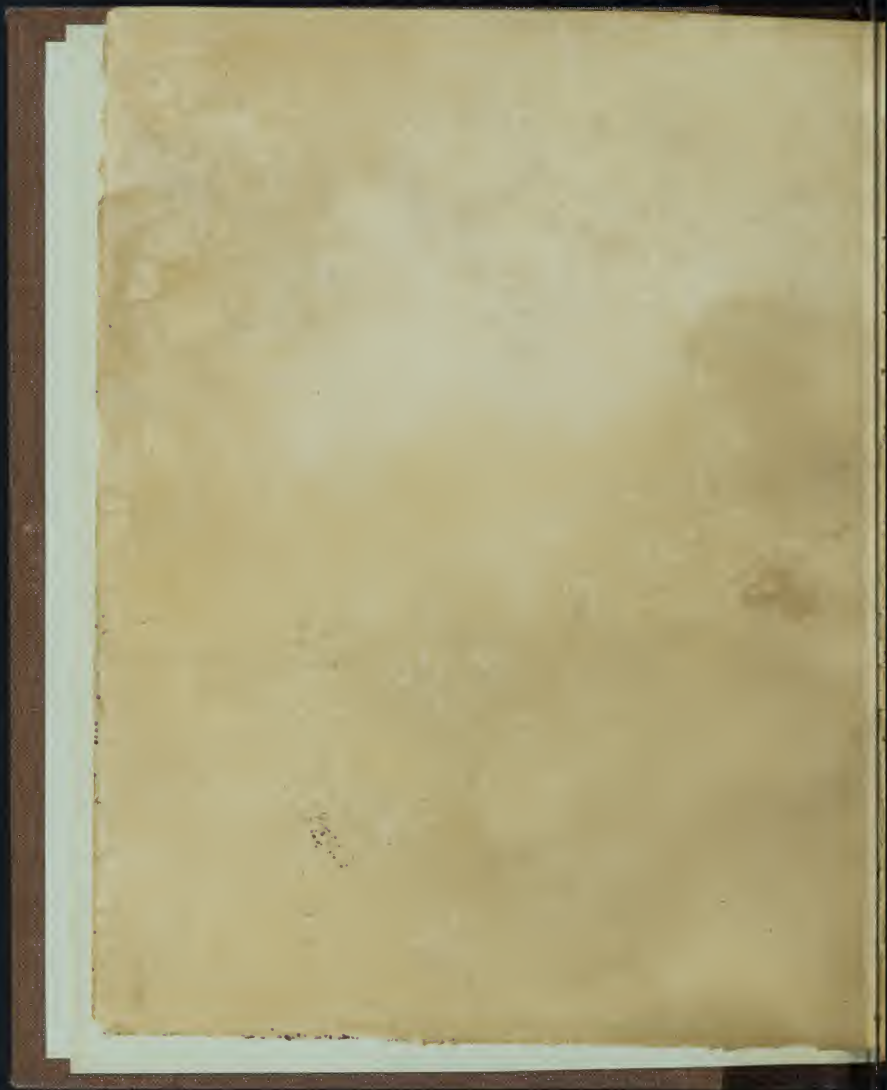
v. 4

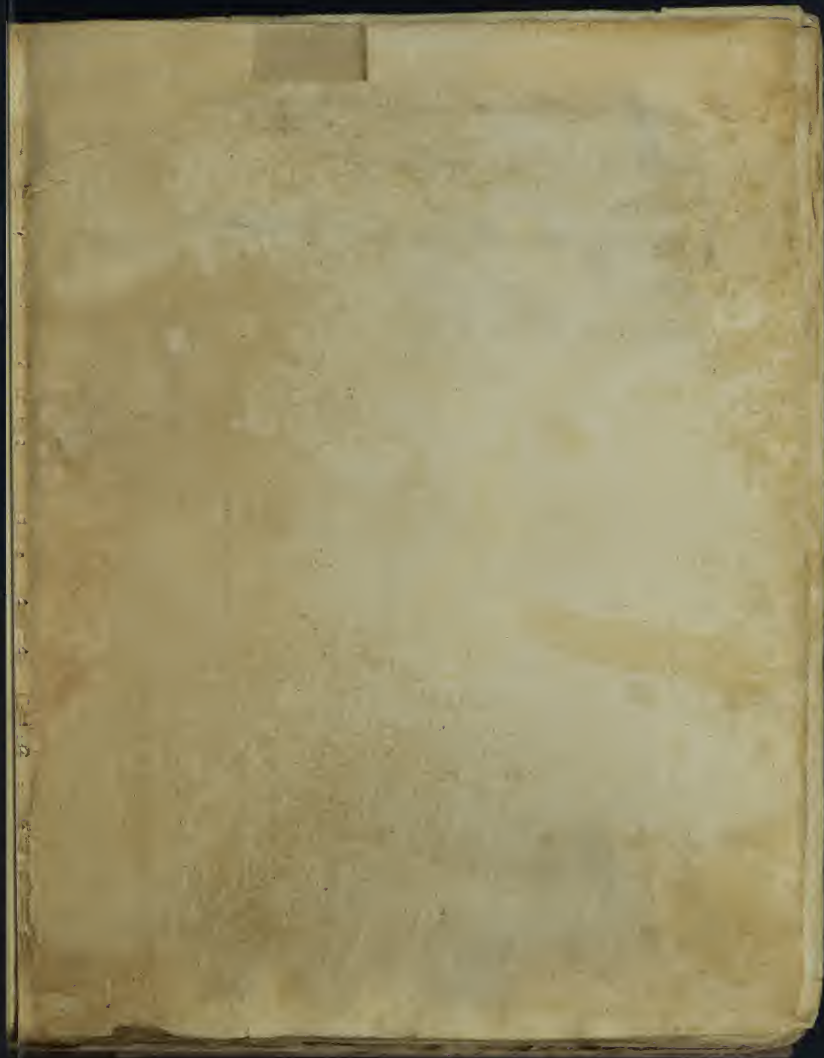
Mss B
L71
1807
v. 4











+ Master and Servant

{ Law Merchant
Insurance
Bills of Exchange & Drafts Notes
Criminal Law
+ Pleas & Pleading

1 Master & Servant (2)

The subject is a subject to
the authority of another, &
another is one who exercises
this authority,

This must be personal &
civil, as a Shiff is no
servant of the Land

This authority, is given by virtue
of contract, In Engl there
are 6 kinds of servants.

1st Men, 2nd Apprentices &
domestic servants, 4th day
labourers, 5th Agents or bond
clerks, & 6th debtors in seizin
the gift of the master not known
to the C^t, the others are

1st born 402 3, 1st born 404
409, 1st of born 44
So born 600,

^{some say}
 slavery has never been legal-
 ized in con. land it has

Yet has every man and woman
 to be natural law, eth or local
 law of con. It seems as if
 really a natural or moral
 law, 18th 423 — Now by eth
and this principle no private slavery
i.e. eth of Eng. — and even local
 laws in other countries impli-
 cing slavery, can't be enforced
in Eng., 18th 555, 18th 1

There is a slave in France as soon
as law has enforced

17th 179, 18th

18th 124, 18th

18th 1

in Eng. in private law, the
more will be done
not at all slaves, but

that it was placed ⁱⁿ 1807,
 It's not worth it to discuss
 again, But now there are
 in Illinois in line, they were
 done away by 1862

2 Blk 94, 1st Sect 189
 194, 204, 3rd Sec 407
 2 Blk 90, Sect 8,

But by our local law qualified
 having not been allowed, not
 by 18, but practice of the same
 and by the counting on the
 practice, some two or three
 in. Con. Sec of Con 141, 228, 337
 396, 399

Then the law admitted is collat-
 erally, they have said that a
 law may be void & later in
 execution, the law can be re-
 taken by them if state order
 is made

18
known as a chattel, for a slave
is not a chattel & this is
not the reason — but if
a slave is sold, or let, or
conveyed to another, it
will be his case.

Perfect absolute slavery was
not in use even at this time, for
never could a slave be beaten
or whipped, or lay on any
and there always a slave might
redeem himself by saving
his master fault — so the
idea of slave with compass
his master was as a slave
as ^{at} _h by other laws, hence it
was never absolute slavery,
because the master permitted
him to make contracts, & his
services to the effect, & by the
or in part of ^{the} ~~marriage~~ ^{the}

2

common, as is free from sin
father

37 R. 35-6, 2 1/2 Blk 11.

But before a law marriage
is not emancipation, but
here the mother gives account
as this is not contrary to our
view in Bar.

Let Sect 187, 2 Blk 944

17th 129 note 3, 115

155, R. 1314

The question if an illegiti-
mate child can be a slave to
birth, yes because the child
follows the state of its mother
if the father is not the man,
and if the mother is residing
in Bar, in Bar the child has no
father, only a mother.

2 Blk 944 Let Sect 187

6

But now in consequence of the
most totally obsolete, the same
trade was long since
abolished.

By Act all children born of slaves
after 1784, shall be free in 1784
and then after 1791, at 21,

Act of 1799, 465

So ^{after} 1808, Congress prohibited
the slave trade and all the
states have abolished it then
(excepted to the Carolina)

^{to}
2. Apprentices

The same is taken from the

1 Bk. Com. 425

By 62 The contract of apprenticeship

7
7
The ship must be Dec 400
in the house the 68 8 no
me 28

Settle 182, 2 Ldy 1117,
Settle 68, 2 Ldy 64,

492,

And if the cont is not by decc
it is not good, not as; 8 or 11
survive ^{best} for an old a, living
by the year or so,

89 N 379, 1117 600

It is said the servant must be
some as optimum, but 1117,
as it is not absolutely necessary
the deed shall be taken as is
most clearly

3300 546, 10000 1117

57, — 89 N 379

1 East 539, 24,

All are are out of map.

in relation to the

Bar 546,

and the reason of the difference
is that as a person's life is a series
of events,
having its fall by accident,
the whole is

The King & Co. have been
sued in London &

18th Feb 425, Pt of Co.

60.343.

The parties are entitled to no
more for service & on the
contract & there is no such im-
plication 87th Feb 419,

The parties are entitled to no
more and this is implication, as
it is shown & I am sure in 1879
and 1879

18th Feb 428,

The less number of questions now
 are called for in a draft
 in the 1st minor is a bird
 the minor is content in glass
 for the 2nd, the 3rd are not
 found & the cover only in the
 for this is not a rule by 1st &
 but in implied. The minor
 here is a small one. The next
 matter is to get the 2nd
 of the 1st is a small one.

Book 223 65497 66171

248. Same as 1. 185. H

1905 7 24 710

if the post is found to be
the post is found to be
the coverants both to GL & I
in the cover out & the minor
coverants to be in if the minor
runs off the post. The coverants

June 50, 518 8.50 10.0

10.5

But in bona fide man is not bound
on ever, and a apprenticeship
for under the St

If the man the above the part
is not de, part in service, for
this is an implied if not a
negotiated contract

10th 515, 1 Bar 425

when a part can be discharged
and by the man, and the
man only, where the discharge
is a contract

6th 1117, folio 68

Section 182

But contracting or giving
the deed, is a discharge, for it
no longer yet

10th 582

If the man permits the part
to go by force, the part is to
release, release from his contract
the man for 157, 3 Bar 125

In case of St. the 6 Count can dis-
charge the app'te on any mis-
conduct of the master

Stalbon 294. 3 Bar 150
10th 425

The 6th State as written cont.
an opinion, for an personal,
the as long as the is a pleasure, the
cont is a unusual

17. 18th 558. Holt 134

17th 119, 2d 58

Doing 69

So if the action is to be done
the app'te may be ap-
pointed, as well

17th 1257

But this opinion is good as to
the master & he is liable to
the expense if he is to be re-
turned to the app'te as may,
but if the app'te does serve he
will be liable to the cost

11
14

given back money of 1000
in the 14th Dec 1882

Dec 1882

London 10th Dec 1882 (Friday)

When the premium is paid

cash 38425. Paid 37.4.40

11. Dec 1882

Therese is a respectable woman
in London belonging to the noble
i. during her afternoon, and
there is the same of the old

fact.

Dec 1882, 11th 11/10

10. Dec 1882, 11th 11/10

11th 11/10, 11th 11/10

But this is not the case with

any other servants - except those
who are in the all for some
the amount of the work the
most of the work must remain
this, less the servants wages

the most remarkable 12 months

Co 853 35th 57 58
15th 117 2 1st 63

And the fact is coming 12
opposite, and the accounts as in
some of the months can be more
than and it matters not whether
it is in the month or the opposite
between the strange or not

18th 83, Aug 88
12th 184 415 5th 69
18th 68

The strong and not right
you had it done, give
The most has only made progress
in the opposite corner by his labor
for the most in a, in a, in a
again, only, in a, in a, in a
8th 184 415 5th 69
opposite to the most 12 months,
and if properly, in a, in a, in a

16

in the same branch 30. 1. 1849

gives also 20.

From some of the above, the
history of the same is the following, but
 if the same is not the same, it is from the
history of the same

branch 30. 1. 1849

Settled 30. 1. 1849

279, 2187, 2188

During the above year a settlement
 was made in the same, but in
 the same year a settlement was
 made in the same. St. of 60 = 240.

From the above, the same is the same,
 and the same is the same, but in
 the same year the same is the same of
 his above, after his term is at
 the end of 30. 1. 1849
 when the same is the same, but in
 the same year the same is the same, but in
 the same year the same is the same.

5

3d in front.

There are several in the extent,

4. The rate of ruin is not fixed
recently it is 40¢ for a year, but in
some towns no such rule here
but different problem

1 Oct 425, Fil the box

158

o. T. in 1890, p. 11. relation con-
tinued for 10 years. 1890. 1891. 1892. 1893. 1894. 1895. 1896. 1897. 1898. 1899. 1900. 1901. 1902. 1903. 1904. 1905. 1906. 1907. 1908. 1909. 1910. 1911. 1912. 1913. 1914. 1915. 1916. 1917. 1918. 1919. 1920. 1921. 1922. 1923. 1924. 1925. 1926. 1927. 1928. 1929. 1930. 1931. 1932. 1933. 1934. 1935. 1936. 1937. 1938. 1939. 1940. 1941. 1942. 1943. 1944. 1945. 1946. 1947. 1948. 1949. 1950. 1951. 1952. 1953. 1954. 1955. 1956. 1957. 1958. 1959. 1960. 1961. 1962. 1963. 1964. 1965. 1966. 1967. 1968. 1969. 1970. 1971. 1972. 1973. 1974. 1975. 1976. 1977. 1978. 1979. 1980. 1981. 1982. 1983. 1984. 1985. 1986. 1987. 1988. 1989. 1990. 1991. 1992. 1993. 1994. 1995. 1996. 1997. 1998. 1999. 2000. 2001. 2002. 2003. 2004. 2005. 2006. 2007. 2008. 2009. 2010. 2011. 2012. 2013. 2014. 2015. 2016. 2017. 2018. 2019. 2020. 2021. 2022. 2023. 2024. 2025. 2026. 2027. 2028. 2029. 2030. 2031. 2032. 2033. 2034. 2035. 2036. 2037. 2038. 2039. 2040. 2041. 2042. 2043. 2044. 2045. 2046. 2047. 2048. 2049. 2050. 2051. 2052. 2053. 2054. 2055. 2056. 2057. 2058. 2059. 2060. 2061. 2062. 2063. 2064. 2065. 2066. 2067. 2068. 2069. 2070. 2071. 2072. 2073. 2074. 2075. 2076. 2077. 2078. 2079. 2080. 2081. 2082. 2083. 2084. 2085. 2086. 2087. 2088. 2089. 2090. 2091. 2092. 2093. 2094. 2095. 2096. 2097. 2098. 2099. 2100. 2101. 2102. 2103. 2104. 2105. 2106. 2107. 2108. 2109. 2110. 2111. 2112. 2113. 2114. 2115. 2116. 2117. 2118. 2119. 2120. 2121. 2122. 2123. 2124. 2125. 2126. 2127. 2128. 2129. 2130. 2131. 2132. 2133. 2134. 2135. 2136. 2137. 2138. 2139. 2140. 2141. 2142. 2143. 2144. 2145. 2146. 2147. 2148. 2149. 2150. 2151. 2152. 2153. 2154. 2155. 2156. 2157. 2158. 2159. 2160. 2161. 2162. 2163. 2164. 2165. 2166. 2167. 2168. 2169. 2170. 2171. 2172. 2173. 2174. 2175. 2176. 2177. 2178. 2179. 2180. 2181. 2182. 2183. 2184. 2185. 2186. 2187. 2188. 2189. 2190. 2191. 2192. 2193. 2194. 2195. 2196. 2197. 2198. 2199. 2200. 2201. 2202. 2203. 2204. 2205. 2206. 2207. 2208. 2209. 2210. 2211. 2212. 2213. 2214. 2215. 2216. 2217. 2218. 2219. 2220. 2221. 2222. 2223. 2224. 2225. 2226. 2227. 2228. 2229. 2230. 2231. 2232. 2233. 2234. 2235. 2236. 2237. 2238. 2239. 2240. 2241. 2242. 2243. 2244. 2245. 2246. 2247. 2248. 2249. 2250. 2251. 2252. 2253. 2254. 2255. 2256. 2257. 2258. 2259. 2260. 2261. 2262. 2263. 2264. 2265. 2266. 2267. 2268. 2269. 2270. 2271. 2272. 2273. 2274. 2275. 2276. 2277. 2278. 2279. 2280. 2281. 2282. 2283. 2284. 2285. 2286. 2287. 2288. 2289. 2290. 2291. 2292. 2293. 2294. 2295. 2296. 2297. 2298. 2299. 2300. 2301. 2302. 2303. 2304. 2305. 2306. 2307. 2308. 2309. 2310. 2311. 2312. 2313. 2314. 2315. 2316. 2317. 2318. 2319. 2320. 2321. 2322. 2323. 2324. 2325. 2326. 2327. 2328. 2329. 2330. 2331. 2332. 2333. 2334. 2335. 2336. 2337. 2338. 2339. 2340. 2341. 2342. 2343. 2344. 2345. 2346. 2347. 2348. 2349. 2350. 2351. 2352. 2353. 2354. 2355. 2356. 2357. 2358. 2359. 2360. 2361. 2362. 2363. 2364. 2365. 2366. 2367. 2368. 2369. 2370. 2371. 2372. 2373. 2374. 2375. 2376. 2377. 2378. 2379. 2380. 2381. 2382. 2383. 2384. 2385. 2386. 2387. 2388. 2389. 2390. 2391. 2392. 2393. 2394. 2395. 2396. 2397. 2398. 2399. 2400. 2401. 2402. 2403. 2404. 2405. 2406. 2407. 2408. 2409. 2410. 2411. 2412. 2413. 2414. 2415. 2416. 2417. 2418. 2419. 2420. 2421. 2422. 2423. 2424. 2425. 2426. 2427. 2428. 2429. 2430. 2431. 2432. 2433. 2434. 2435. 2436. 2437. 2438. 2439. 2440. 2441. 2442. 2443. 2444. 2445. 2446. 2447. 2448. 2449. 2450. 2451. 2452. 2453. 2454. 2455. 2456. 2457. 2458. 2459. 2460. 2461. 2462. 2463. 2464. 2465. 2466. 2467. 2468. 2469. 2470. 2471. 2472. 2473. 2474. 2475. 2476. 2477. 2478. 2479. 2480. 2481. 2482. 2483. 2484. 2485. 2486. 2487. 2488. 2489. 2490. 2491. 2492. 2493. 2494. 2495. 2496. 2497. 2498. 2499. 2500. 2501. 2502. 2503. 2504. 2505. 2506. 2507. 2508. 2509. 2510. 2511. 2512. 2513. 2514. 2515. 2516. 2517. 2518. 2519. 2520. 2521. 2522. 2523. 2524. 2525. 2526. 2527. 2528. 2529. 2530. 2531. 2532. 2533. 2534. 2535. 2536. 2537. 2538. 2539. 2540. 2541. 2542. 2543. 2544. 2545. 2546. 2547. 2548. 2549. 2550. 2551. 2552. 2553. 2554. 2555. 2556. 2557. 2558. 2559. 2560. 2561. 2562. 2563. 2564. 2565. 2566.

4. Day Laborers

By giving by the persons of no visible effect
more by justice in the matter to Cuba

2 1/2 1 2 6 7

3

Sept 11th,

22. no. 22-016 on the southeast.

182

only as effect of the part only of 18
 matter only

182 407 182 409

182 412 418

Every bank, therefore, on the same
 measure a agent is bound to keep
 and this commission is the
 success of the law, even before else
 in individual for several copies

182 409

Spoken in my relation to the principal
 and to satisfy upon account of the
 incident - but if the law can
 moment for them up, the
 law has been for the year with this
 under and the right of union
 with in proportion only

182 414 182 418

182 418 182 418

182 418 182 418

To the London Board of Trade
in the City of London
for the purpose of
and also to the
Board of Trade

60-251, 5

1. Verbs are divided in good
and bad. The good & the critical
expression is a constructed
expression that is, for instance
under the term is a critical
expression. 32 Apr 119, 2. Verbs 117

10-1-132

A volume of a list of buildings,
and descriptive paper of the same.

Agoston is a powerful commercial
city, this morning we
traveled at home, & Agoston
to be so.

Effort is being made to
to carry out his own people here

201

And yet gives more or ^{less} _{or} less
than his commission warrants
the principle may depend, & the
if he buys too much he is liable
to a censure or punishment or he has
authority,

a. Dig the ground at left. Thence
 in two rows, the upper is 42
 fathoms, the lower is 10

at Fall may never pay a 1st
good of his promise & if he does
the work, & he may see the power
if he has paid the fallow in his
he will be in a position to 1st
power, but to the fallow only
the fallow's debt, as the fallow's
claim is personal which can be
transferred, J. P. 512, 503, Aug 11/8

147 42, 52, 103 & 6648,

I may sell the goods & run
for the price in his own name
and he for a time on the money
and could commence inquiries
this, as the business is abroad

114 4362 600 256,

114 4379, 600 7 8130,

2 5, 2 11 256, 114 4379 112

This last note is a letter to a wife
and she, in my name, will be seen in
his own name, as is the money
business, & goods

Part I. 114 4379

What an auctioneer says in
his own name, the goods to move
and goods for a month, for the
auctioneer sells in his own
name, the goods included in
the goods

114 4379, 2 5 256, 2

But in both the above cases
the principle is the same

He has received 11 votes to be
made 11 dollars, but this
sum is not to all the
demands of the State!

1 1 1 2 2 2, 1 2 2, 2 1 1, 1 5 1
2 2 7 1, 2 0 5 8 1, 2 2 1 1 1
3 2 0, 1 1 1 1 1, 1 1 1, 2 1 1 1
1 1 3, 6 1 1 1 1 1 1 1 1 1 1 1 1
5 1 1, 1 1 1 1 1 1 1 1 1 1 1 1 1

the Attorney who represents an in-
dividual for his private
interests is not a public officer
name, & is not a public officer
but a private person.

96025^2 , 269308 , 8 , 11 , 141
 5711 , 117 , 116955 , 1537
 181 , 62 , 100 , 33 , 2 , 327 , 30
 8 ,

the same form is made. The
finger "40" by the attorney,

2140

24

I have been so much interested in the
 subject, and have been so much
 given to it, that I have not
 been able to attend to it
 for some time. I have
 been very busy attending to
 1792 315, 792 207 208
 208 and 468

A Public agent is not liable on
his part the in his name, but
a simple agent mouth,
The agent of the Public, as declared
U.S. of L. 1862

Don
There are two reasons for this, one how
a set of numbers is set down 66 as it is
originally a set of numbers in if the con-
vey the set of numbers in the set
they can go

He is waiting for his baggage, & going to see if it will pay the debt & costs, the officer present is peculiar, & a person of a different sort, he is not going to any of the other men.

insistent in every circumstance. I
should often grant the objec-
tion, said Thomas, but on
the I have been more than
able to, the it will come in con-
venient consideration, and give
some more to refuse

26

Elemental Principles

When is the motion deemed to be
acts of the mind?

Those acts which are done by the
motion common as acts or
impulses, or by the motion
and the motion can be done only
from contracts

What is an implied contract?
all the usual acts of the motion in
the implied contract, or by implied
contracts, 10th 429, 2d 341,

When is the motion deemed to be
motion, they are the acts of the motion,
a contract by a contract in a contract
of the motion if motion in the
usual contract

10th 429, 2d 341, 411,

21
If the land is sold on the same
the goods are to be sold
Monday, 8th July 1889

It is if the land is sold on the same
the goods are to be sold
on the same day, and the
the goods are to be sold on the same
all persons but the same on the
a land of the same day, and the
of the same day, on the same day, and the
of the same day, on the same day, and the

11th 618, 3rd 1889

4th 303, 12th 1889

11th 618, 3rd 1889

10th, 6th 1889

But the same is carried
on the same day, and the
will have the same day, and the
the same day, and the

10th 1889

If the same is carried on the
goods are to be sold on the
same day, and the

28

much that is in my mind

26 Dec 1793 Nov 289

Lock 513

But if the matter was present when
it was in a state, the most
any can see, for the actual
population is the matter, and the
is considered as having no
more a distinct population

Lock 510, Dec 1793, 1

House 128

so is the profit is got from the
was 1/2 of the, the most
get at last, but it could not if 1/2
was 1/2 of the, then being
more matter of illud, and the
population of money is sufficient
with, but of no other else as form
on carriage 30 Dec 1793

28

the feeling, for the law looks not
to intention when one has done a
civil injury to another by forcing the
servant or master on liability, and the self
will not look to the fact of 892,
beyond the agent of the injury.

To treat as a wrong or act, without
the intention or implied consent
of the master, the master is ^{not} liable
+ 12 To the is liable for his children
not only in every other master, his be
in the is nothing.

It is in 208, 3 Feb 282, 1891
401 89 Feb 1893,

to be served as a bill arising in masters
occurs on business, does a civil injury is
given, the master is not liable

1 East 103, 1828 5472, Feb
241 — 1828 405

But if in the business, the ^{ing}ing
arrives first. The ^{ing}ing is
most of the will of the servant. The
master is half

570-120, 52048

24442, 120 + 101

1301-131

The reason of the first rule is that
the act is not the act of the master
but the act of the servant. The first is not the
master's willful, the servant uses
his master's property to do his
chief, his master's will, the servant
of the master, the master's will is
to be observed, but not if it
was done through carelessness
should not. A master can never
the property of his servant, but
only his carelessness.

32.

The master is liable for the servant
~~negligence~~ 2 H Blk 111, 1 H Blk 112, 1 H Blk
 113, 1 H Blk 114, 1 H Blk 115

The master is liable for the servant's
 negligence in the course of his employment
 if the servant is acting in the course of his
 employment 2 H Blk 111, 1 H Blk 112,
 1 H Blk 113, 1 H Blk 114, 1 H Blk 115

When the servant is liable for the
 negligence of the servant, he is liable
 to the owner of the car, and the servant
 is liable to the owner of the car. The servant is liable for
 the negligence of the servant only, the servant
 is not liable for the negligence of the servant.

2 H Blk 111, 2 H Blk 112, 2 H Blk 113, 2 H Blk 114, 2 H Blk 115

Secondly, if a servant hires a master
 to do a certain business, the master is liable
 for the negligence of the servant in the course of his
 employment. The master is liable for the negligence of the servant
 in the course of his employment. The master is not liable for the negligence of the servant
 in the course of his employment.

with the agent,

33.

10th Dec, 62

But the case is the same as in the case of the
the only one to be set, but
the master of the vessel is
gentle in the case.

6th Dec 41.

But if it willful, as in the
case of the case of the
of contract between the master
and the owner, the master is
liable, as a bill of lading is liable
if his apprentice willful, as in
a case of the case of the
is a breach of an implied
contract of the master in the
master is an insurer, and he is
liable on it as a breach
of contract.

1st Dec 1880 10th Dec 1880

910 1st Dec 1880 10th Dec 1880

1st Dec 1880 10th Dec 1880

1st Dec 1880 10th Dec 1880

Monday 11th January, the 1st to know
 the amount of the account and to know
 with the amount of the account. The
 for the year 1881 and is payable
 to the person who is the owner of
 the 10. It is a license of the person
 a 'rent' agent.

to pay 10th of the 1881
 to the 11th of the 1881
 10th of the 11th

that a person who is the owner of
 the 10th of the 11th of the 1881
 the 10th of the 11th of the 1881

to the 10th of the 11th of the 1881
 to the 10th of the 11th of the 1881
 to the 10th of the 11th of the 1881

The 10th of the 11th of the 1881
 of the 10th of the 11th of the 1881
 within the 10th of the 11th of the 1881
 being, the 10th of the 11th of the 1881
 the 10th of the 11th of the 1881

to the 10th of the 11th of the 1881

36th

3 Ball 434, 1st c. 110, 169

28 Apr 78, 52 to 55, 1 Ball 845,

cyber as March, is one that is bound
to all contracts on which a contract
kind, a contract on which is contract
to a contract contract

If money is always sent out
with money, if the contract is contract
after, the contract is not contract, because
it is not a contract on which a contract
the contract on which a contract

3 Ball 434, 1st c. 110, 169

430

But if a contract is contract on which a contract
buy goods & his contract on which a contract
this is a contract on which a contract
contract

3 Ball 434, 1st c. 110, 169

84 to 85, 3 Ball 528,

But suppose the master never gave
any authority, but used his secret
with money, it is not buying it & it
was done, but it is not buying it.
Money, is the master's bill &

Dec 224, 3 Feb 234,
10 Feb 110, 37 Feb 760.

If the master has not his secret trade
on land, he can stop it, only by giving
notice & prohibition to the trade
men, who have been there.

For the prohibition on the sale of
the relation, must be as general
as it is given.

570, 760, Oct 42, 114,
10 Feb 109, 14 Feb 340,
6 Feb 220.

to go to the ...
...
to a ...

1 roll ... 95, ... 143

2 ... 59, ... 560

... is a full ... & ...
... was ... from the ...

If a clerk in a store ...
... is ... the ...
... for ... the ...
the authority ...

2 roll ... 5, ... 250259

... 533, ... 757

... 177

When a ...
the name of his master, ...
authority, the ... is not ...
the he will ... his own
name or credit ... to ...
the contract

40

1 Roll 95 2 Roll 1270

But if a man has contracted for his
marriage with a woman 12 authority,
the marriage is only valid in some
form

1 Roll on Contr 128 12 Ver 123

And if one acts for or another
under his authority, the marriage
is bound, & the wife is a wife
in this sense to her husband

13th 436

In bon by 12, if one man or another or
another as a man, is allowed by him
to contract for himself, the marriage is

14 of bon 243

bound, and if he does not give his consent
the marriage is not bound, hence

42

secret in himself as he is the master of the

Self 18, book 202. & Elia 175

gives no authority

But if the secret in the master and
 a servant can be kept from secretism
 or ignorance, the secret & master
 are in the living, unless the trou-
ation of the secret is found on
 central between the master & the
stronger, then the secret is not able
 to be stronger, the secret is the master

Plg 1089, 1. Title 228. Exp 29

180, 180, 180, 211, 185, Plg

220.

For the secret is in the room as
 if done by the secret himself, or if a
control apparent and entirely
entire coat — then the stronger
has no relation with the appren-
tion, unless the secret is not but
which would be without his

470

service — when a contract
is violated, you can look only
to him with whom you made
it —

1 Blk 451, Camp 400, Fall 1882

003, 580, but 410, 600, 15

1 Blk 196 205 197 220

5th 125,

next to the area of a village and
in all cases, and the
most not only, but to the dis-
position of the most contract, the
both are liable.

it makes agent contracting, as
such is not personally liable,

Camp 59,
if an officer or such receive too
much money bona fide, it cannot
get ^{from} him, but from the govern-
ment, he should be treated by a suit

6th 182 -

For attorney's fees. There has
been a relation, but on application
seen, he is not liable, for he must
not judge of the validity of the re-
lative, but act on his office requires

1 Roll 98, 1 Roll 209, 2 Bar

898

But if the attorney argues, there
has been the injured one may
see him, who then his client
on his opponent's client

Hullon 125, Est 19 518

45

The secret. Undoubtedly to his Honor
General the servant is liable to the
master for all neglect or negli-
gence tending

1 Nov 400 67/205

11. Dec 119

But if the servant breaks orders
and is guilty of a crime, it is not
to continue, he on any count
or for confidence, he has lost
nothing

1 Dec 498

But if he disobeys what ever law
rule, or neglects, & in any manner
the servant is liable for it, it is
doubtless he has been punished

1 Nov 188 2 Nov 28, 11 Nov

26, 6, 1 Dec 498

And the rule is the same if it be
for common sense or discipline

407

8 There is always an implicit common
for him to do his usual official duty

2 His 325 4 Bar 2000

8 to 517

2 The in the case of times
only to filling an ore & not to strengthen
or skill

11 to 104 3 Bar 104

12 This rule is not a prescription
when it is not in compliance with his
professional duty, but he is able
will as the maker, God with,

13 the agreement to the revelation
of the revelation to every thing
or strong the skill in all things 8

4 to 84 3 Bar 314

14 the is not able to cope with
ordinary case & the case is no

quadrant, is completed,

Mt. Ad 129, Mar 504

The most liable man to the most
terrible, when the most have been
subjected to dangers and a great
affair, and the danger,

2. 1083, Mt. Ad 119

But in this case the most must
not have been a party to the
wrong, for he has not yet any
thing from his present last papers
in this thing. The rebellion's
at an end,

Mar 15th 87 Bp 180,

Thurs 110,

The most less than any other
his secret

Can be said, the most many who
live his secret for any breach of
deeds or involvement or negligence

66 179

1821 175, 1802 428 1804 Bp 11, 130

The secret very important

47

7th of the 1st Bureau 188

1886 28

The question of general all-church
want is general matter of fact, but
not at all as yet as where it can
say the secret is short secret
secret the secret, that is the
way is the reasonable, a secret
could be something causing

1886 188 218

350, 3 Bureau 188

The question is now for the secret
at the moment, the secret is
a secret, the secret, the secret
where it is the business in which
were employed, for there are many
oil facts

1886 3 Bureau 188

of the power of the secret is the
secret is the secret

50

and he could delegate his right of
correction.

960 14, 2nd ed. 187, L. Reg
62 310, 67 356, Dec 953

Had the court made the mother-in-
law school master to correct his pupils,
because the school master who is
not for an officer in the master, but
is a servant of the master of the school.
There is then no delegation of authority
from the master to the school

If the master is charging the
school with his, he is guilty of an
error in commission, not of mere
negligence or omission.

1st ed. 1845, 1844.
1st ed. 1845, 1844.
2nd ed. 1845, 1844.

wherever the master is, he is
the master of his school, it is
to help his master, for the school

12

to suggest him to be a
servant in his house, to be a
sufficiently. He is not a
him

1801 98, 2 Jul 1839
1801 98, 104, 105, 106, 107

He is not a
the same as before. He will have a
in the other

1801 134, 135, 136, 137, 138

It is not a
properly a
in the house, to be a
part of a
to be a
to be a

1801 140, 141, 142, 143, 144

The same as
the same as
in his duty, to be a

14
39
for the master's satisfaction

with 20p 2 Boll 545,

1822 229

But a servant can't, possibly, depend
for his maintenance on more
than one master, his service
is personal, & can be for his
master's good

3 Bolls 8 1/2 Kitchie

1486

Can a master find a servant for his service
good he may, for the master
may recover damages, as he may
in all other cases, as when he's
go abroad he can be absent, still
the master may avoid & keep that
service or interest that he can,
The reason why he can't, given
a reason, will be to all cases
when a man can get damages

the results. I believe on that the
some time comes to the meeting first.
I will be sure to say how the
relation, and for instance is

96 113, 107 to 131, 2 April 198
S'ce 17, Dec 426, 61 118, 2 111

1082
The first was in Step a meeting in
some of the meeting, and in the meeting.
The meeting on it comes for out
consequential damage as to the
secret meeting in the meeting he will not
have to do the secret

It is settled if an agent collects money & pays it over to his principle who ~~owns~~ ^{owns} ~~lends~~ ^{lends} him - he is not liable - But if this principle had forged his authority from his principle the real creditor, the attorney would still be liable, because he uses the creditors name without any authority - it might be different had the atty used in the second principle name who had forged a trans for & thus claimed the right himself, for then it is like any other creditor who claims & is paid over to him a debt which in the end belongs to another creditor, in this case the atty cant be sued, for he ought not to be forced to make out the title as his employer, provided he has been actually employed for & by his principle
to Com on Bond 20 -

484

this land if there is any peace
whatsoever, the consequence
wholly void, & any consequence
must be void part, you don't see at
B.L. any peace consequence the consequence
is wholly void. the fact must be con
void

3. At B.L. is more an any way by
can be described in the country, two
voluntaries, the case is then an
inquiry, for that is an old case has been
most considered, but by this
has a gratulation at will be
the man to an as it draws
a bill against on B.L. Swan except
at the case don't will, by this
will have an idea on it

4. At B.L. if you in the an and let
an of the joint securities, you
can't write the an the after, but
by this land if you let an of

price, you may then go and
 take the other, and then the
 principle in the B.P. is from
 one debt to another. Then good is the
 release of the debt in the M. person
 is really, but not a true release
 of the person, this is only a con-
 sideration to the person

5
 If the time to die a contract is upon
 or Monday at B.P. then on Mon-
 day is sufficient, but by the Law
 it must be done on Saturday

6
 At B.P. a chose in action could
 not be sold, but after interferences
 apart from the Law it is now the rule
 in the name of promises, but
 by the Law choses are negotiable
 and transferable & the holder
 may sue in his own name

1711

Sept 12 at 8 o'clock one
in voice said, "Pine & Birch
the 11 is long in afternoon of
the Marine, like & fore
in some one of the one
now collection."

the same again sent in another
and also grain away

By C. C. Stephens that in other
this is the same, & L. H. H. H.
find it must be the same, but
in all other countries, but
by the 9th of the, the
the same, as say the same

in fact 41 1 Dec, 1826

Print 1240

The points in long, the same, but
since, perhaps, they are not
1774, as the of the same

6, 12 13, 1374

The English, but only, the same
were last, probably, this is only
in affairs, and of C. C. the same
again, the same, the same, the same
that the same, but really, the same
say, it for the same, the same, the same
too, the same

578, 33,

the same, the same, the same, the same
the same, the same, the same, the same
the same, the same, the same, the same
the same, the same, the same, the same

Melospiza cinerea

1. Ball may only as well as only
 2. only as well as only as well as only

The Long & Stay Individuals
once inside, but only the ladies
thus come home.

no measure is made in the bar
his wish is in the ship, cargo, freight
but even this cost is increased
by loss of goods to be managed
and then in the balance of it
not liable

Count 343

any of goods in a foreign country
where the market is illiquid and
the demand is small. I am a small
business and I am not sure
about it.

Port. 237

the laws of another country
is not a contract. it was
 not intended, to void

65

Freight is only insured, even
when lost in transit. The in-
surance of the freight is not
valid unless the cargo or part of
it is on board - it being on the
wharf is not sufficient.

As to the freight insurance, it
is at 1/4, the cargo is taken out
at 1/4, the capital is considered as having
the cargo on board from 1/4 to 1/4
as the part of the freight of the cargo
is not can be insured, then
it is less but one case of this kind,
as in this case the capital is not not
alone, & clear, the part of the
the profit will be insured, it
has been insured in for

Policies are valid & open

The first is when a certain cargo
is not insured, the second
where the capital or cargo, or freight
which are always estimated at

what on the whole they have
lost, are consumed -

In the first place, we are actually
 out of the business, but if this
 point were decided the policy is
 void - anything to avoid a loss
 is an insurance policy, it is a policy.

But we are insured, it is an insurance
 policy, it is in this country, to the
 effect which we have always had

that in the event of a war, we want the
 it is void because they are against
 the policy & from the same they
 are not void in the U.S. There

is many old authorities against
 the war being void without
 it, but they are now overruled
 a war being policy is void
 there is no interest, where there
 is only to be again and no don
 you or probability of loss, there are

hair - a good insurance man
to enter ~~the~~ it is to secure
against a loss

Any man who has an interest
legal or equitable ^{may} get an
insurance on his interest

1 Burr 189, 1 B R 103,

17 B R 745,

the equitable interest may be in a
second

Marshall 84

Insurances payable to & money paid in
survivors 3 B R 18, 1 B R 15,

An owner of bottoming bond may
have an insurance on the dis-
sent, & for nothing more

Bowen 583,

In water policies the price
only is easily ascertained but
surplus there is only a partial
loss, you recover only for what
is really lost, what corn barrel

64

But what the articles cost for

Property is often ~~been~~ ^{be} insured
 a double insurance is where the
 insurance get insured, not where
 the same thing is twice insured
 this is lawful by law but the St
 dont allow one get in long

The man cant have the same idea
 while there, being insured, the policies
 are not illegal, but there can
 never be more than one recovery
 & this regulation prevents the
 policies from being illegal - But
 one office where they say the whole
 can recover the proportion from
 the other offices

7

There is no other remedy too
when the commerce & vessels are
laughed at - It is an illegal war
not a war of justice & it is not
in our power to make it so - If any
one in the East India Company should
attempt to trade with the Indians

89 Nov 31 a circular note
can't be at small

Under the old law, a man may
expropriate himself to all his nose

The risk is on again -
It is not all risk are insured against
No man is insured against his own mis-
conduct - Insurance against
various things or all together - The
memorandum which is a charge
to be found shall that is on or grain
ain't insured unless it is all lost
or there is a great partial loss &

The ship be stranded in such
cases the grossers are liable. But
whether the grosser is per' heart or
luckless or then the vessel be stranded
the grosser liable — How Field &
Brother think the captain the owner
responsible only to what degree
of the stranding. But it is now settled
that the owner is liable not how the
loss occurred, if the vessel is per' & be
stranded.

77 B 2 210

303 in 15.50, 3, Park 110,

That is a stalk of grain, like
the one but they sisk, corn is the

but it must sell, this point is unsettled
 of Price. The 12. Marine thing is there
 if the ruined & unsellable, this a total
 loss, the settled if the cargo is lost & not
 the value of the freight is saved, this is
 a total loss, then goods are always
 12. cargo, as can be seen, if the
 article then is out value the freight

There is a claim of the 12. of the
 sea, is not good & it is negligent
 or misconduct of the owner of the
 or then amounts to captain &c
 or then is to be taken into account
 must look to the owner & must be
 the policy - It is not correct to
 storage, this is their neglect & it
 policy is not bound - The owner
 are liable for all in conduct of
 the Captain & crew - But now
 these are not considered as Barron
 in the sailors or crew are liable only

1841 196, 175, 220
 for negligent & not civilly answer
 the man the only to be paid

92

The policy is void if there has been
any ^{gross} negligence

as to the ship when the vessel leaving
it is a condition of the risk on the
policy is void. The risk commences
when the goods are put into boats
to go on board & so till they are landed
the insurance is void, but the
the common law rule, but given this
statute by agreement, from the land
ing on board till it is shown after unloading
- they are lost on board

If property consigned in charge of
the cargo, the Policy attaches the
risk of loss

It is a condition of the policy that
the cargo must be loaded in a certain
manner & so forth

as to the cargo must be loaded in a
certain manner & so forth

The cargo must be loaded in a certain manner & so forth

The note of the ship being at a
 from the port and if so, then
 must be evident that the voyage
 is again gone and after her arrival
 she must be moved to the house this
 is the common land of merchants
 if the only "to a port," of Green if the
 ship have are not mentioned, it ought
 to be safe or having, how
 the point ^{could} be determined. I know
 not

where the time is limited & the
 insured but ^{not} ~~the~~ ^{the} occurs after
 till after the time, & to hold the
 of insurance are not bound

Decorations is not safe that
 another of 2, 1248, Peat 2.11

The same course I will advise
 to a short action as till the goods
 are unsold, some may only can be
 and the English 22 hours after
 morning probably

76²⁵

The insurance policy. The term is
fixed by the Government, but subject in any
case to adjustment
17th Dec 17

you ~~will~~

By the law is meant only
that part of the income that is
used to meet the outgo, and if the
company to take out the rigging,
for a proper term, by it up, still

18th Dec 17, 17th Dec 17
the insurance extends to it, for the
insurer must know this
practice

The voyage must be direct or
as is usual else the policy
is voided, Dec 1706

After the vessel is permitted to
stop & touch at trading places
in the course

James Lynam & Wilson

The water and the energy of the boat
 for a while on the ship, the water

10th Dec 1854

about the water the water is
 found on board

3rd Dec 1854, 1st Dec 1854

The water has been very much
 changed from its usual
 bottom of marsh, and not to be
 run out, after a season with
 water comes from the sources
 on this side of the river is not
 water, for it is not the same

5th Dec 1854

But from the intention of
 ground is not in the water and
 unless executed

5th Dec 1854

The P. 1111

This is a very correct statement
 the two are the same
 a valid body of plain, looking
 is a more water, rain

76

But our investigation is well made,
is not only on land but also on the
fringe. On every other side in
the same way.

12 Dec 1887

After the paper was sent to the
editor - Walter - the same week he
was sent to the editor.

For the is observed to be a large one, with
very few other things, and yet an
insurance. 5 Dec 1887

When our agent is told to send in
a check, he sent it in the same week
again by the same way, per the same way, the
same effort in the same way, the same
in the same way in the same way as
the same in the same way as
the same in the same way as
the same in the same way as
the same in the same way as

of the same in the same way as
the same in the same way as

6
much as it is about about
2000/185, at least 2008

In a Bk. I have seen no such thing
the same as the other one as a com-
mon one 1879. It is very
different from the other

47
The thing must be no longer
exactly when it was - if the paper
is above & you can tell what
the date is, you need not
spend the money

The kind of paper must be known
and if the wrongy mentioned
the policy is void - The cotton
name may not be put in, but
if it is, the insurance must be
that made as a whole

The subject matter of the policy
must be mentioned in the goods
merchandise, "freight", "bottom
bond", if the goods or merchandise

78th

describe the Police extend only to
what is mentioned. This specifically
and the other places mentioned
specifically must not after be
made up into a map

John 199,

Following lines must be descri-
bed, if possible, but custom may
include them under merchandise

The ship provisions must be
known & more than these
must be ^{particulars} ~~particulars~~ listed to the clerk
as this is more hazardous

By the way the place of departure
the time of departure begin must
be actually mentioned and dis-
cussed, every thing must be
fair on this subject and rea-
sonable, the port must be

truly not for, there is
great immaturity in a U L
By you must take them seriously
as they say

When a certain time ^{was}
never was introduced no
communication but as a show of
that we are go a little ^{way to} the
way & the language is written
the - a communication is a matter
after coming to the morning
point -

For devotional, the next morning
must be introduced gradually to
be common & his her

Suppose the road is
to stop at a water place, must
they stop - no this only a lie.
If they were stop or touch if they
chose -

100.

After Police officers are while
the thing is at sea. There must
be no force.

The Commission is always inerts
to always a knowledge on re-
view, that there may appear a
conclusion.

It may alter a Policy, if it appears
clearly it is ever mistaken.

The insured get warrant, the
thing, of up, the gun, the honor
and they are conclusion. prejudice
which must not be for the in-
surance on board — warrants
are up & implicated and if they
be the policy is void ab initio
and as they are prejudice they must
at all events be true.

He must wait just a few days or
 he would also the policy is vain
 & it matters not whether the
 cap arises from breach of war
renty or not, in a present
conclusion.

Camp 606

It was not possible to come
on the face of the Policy
in the same manner

Lang, Camp 790

If the impulse is to go on the 20th
 day, the government action
will be shaded shaded al
times a present conclusion
a detention and a charge is
no less, the condition is pre
current

The impulse must be made by the
same body and the same body
will not be the same

82

If the insurers promise to sail
with convoy, they must & the
one cannot be gotten up.

Then a convoy is such as the Gov
will not appoint, unless the con-
voy appears in the policy.

It is not necessary the same convoy
should go all the way, but some
are appointed by the government
The vessel must go to the place where
the convoy are kept & this is no
breach of the warranty.
If the convoy are at this place
she must go to the nearest, & then
she may go to the next.

"To sail with convoy" means all
the way up.

When the insurers are released
by failure of warranty, they must
repay the premium, whether the

177
vessel is lost or not

And if many vessels are under one
convey, going to different places
shd may have them at a cer-
tain common last bulwark
for thus the insurers need
know would be the case. This
is sailing with convey

The ship must have orders of
the con, but if the con is the one
it still the insurers are liable

The ship must have orders or in-
struction from the convey, or
if there is without orders, then

The convey the the convey
in with her, the policy is void

But if the circumstances are such
that instructions could be got
by reason of storm & still the
insurers are liable

It is my course to get before sailing
 taking them before a war &
 so

with
 the ship's service, the convey
 if the case, the ⁱⁿ ~~must~~ ^{be} ~~result~~ ^{of}
 no urgent or in loosing or convey
ing without a convey

Warrantly that the prop-
 erty is neutral

It is sufficient to answer the
warrantly that the property
 is neutral at the time of the
warrantly

The idea of a foreign court
 in a conviction is said
 once that the thing is not
 neutral hence the Policy is
 void

foreign judges in a thing
 else to ask permission from some
 but in affairs of foreigners, Foreign
 go proper Court is at least
This thing never occurs
will in France - a Council
 can't confer & if he does he
 no confer the thing we
 not central

1815-18

The court must be of competent
jurisdiction - and the order
must show it was considered
as evidence properly & not
not from an inference if
 this don't appear directly the
 is unreason not liable - the
 sentence of the Court is conclusive
 as to that very thing,
actually operated in the session
 & nothing can be inferred the

the clear & plain nature of the
evidence, and the fact that
debtor, not any of its inferiors

The nature of its execution and the
fact that it is known to the bank & the
company, and the fact that this confession
is not on the law of nations
or proof is not proof of the falsity
of the warrant as the fact
has been confessed on the com-
mon law merchant

But the proof of the foreign
is not conclusive as to any
matter of law, but only
proof of direct judgment. The
nature of the proof of the property
is in, not neutral don't of ours
because the issuer, this rec-
tal is only prima facie evidence
that the warrant is false

But if nations by treaty adopt
common rules & ordinances, ~~the~~
as to ~~those~~ rules & ordinances
as to ~~those~~ nations of the
treaty are the same as if
they were the rules of the
common merchant.

of a foreign nation, and in
principles in our courts of law
not laws of nations,
and admirably, and so plainly
appears on the face of the decision)
Our thoughts are to regard the
decision, but the increase of
supplies & placing of fear
on the decision

In every case, & every generation
property, & discipline are not
shall be done to keep it there
neutralized. That there is a for-
feiture of the right to be made
a general rule of conduct
as well as on board of a man-
of-war, for free ships must make
free goods, & no contraband goods
may be with impunity taken
on board of them. There is not any
authorization to the contrary, hence
if the captain refuses to board them
he forfeits his neutrality, and
if a man-of-war goes on any to capture
they may be captured for of course
and if a man-of-war goes on neutral
vessels why then. This only changes
the avenue of commerce
and the French by saint mow
and the vessel in the case of refusal

is perfect, the more than the
B.H.M. is on board with only the cargo
is ^{loaded} on neutral.

This matter may be settled
is suggested by treaty

With Holland by treaty we agreed
never to receive exports and
a national convey

The armed neutrality
was not to change this B.
H. Principle, because they
said it could not be altered
any other way. They did not
deny this B.H. Principle -
we did not gain this neutrality,
now there is no need for it.
Nelson has diminished it -
The nation went to, many
nations don't

Neutrality is for nations by sea
having no army & no navy & no
police, the only nations have
the police - but the only
word of importance is
that the country is not neutral
because it is not always
necessarily necessary for it
to be neutral. It is never
The paper must not set out with
out papers.

The constitution must be
provisionally of Chell or Healy
old. The Chell or are not
referred to for the no further
of neutrality, they still may be
neutral
The Chell of neutrality
is all provisions require.

Sworn only in the presence of a
man which the policy is made
and a man who is not
only a man but also a man

A false representation to
the first man is not
to all others

If the policy contains a voyage
greater than that state in the
representation, the representa-
tion means nothing, for
the insurer knows they have
given a man for this long
voyage

The representative in one com-
munication make the policy
void whether the ruin arrive
from the one representative
or any other cause

to just like the case of the over-
rately

Reger reports that they could
not be told

If the insurer knows of an or-
der, they must tell it to
the insurer, the if you did not
know it the policy would not
be void - The order really
increases the risk & if the insurer
knows it, they should tell
the insurer -

As to the insurer's right to pay
the order from the insurer

The insurer need not inform
of what the provision in all
cases the insurers must
know

The insurer need not tell his

speculations, then would be in
con-

Private as insured need not tell
when they are going or what
about

Was as this cover all things
war, and and they need not be
informed of, for the warrant is
on void

Pres, the warrant

5th The vessel is sea worthy, (i.e.) she
is able to resist the tempest of
the ocean, and if she is not sea
worthy & is lost from captivity
until the policy is void, for the
warrant is a prudent con-
dition. Insurance or insurance
concerning these prudent
conditions

Guano is no reason, the war
rental can be dispensed with

2 The master properly manages
this is simple & when times
may vary to have a fleet to go
up a river, the number of boats
shall be got

3 The master should be charged
with the absolutely necessary

4 The ship shall be managed
to secure cargo to land & to
the - of land is meant & the

There is no implied warranty
that the goods are neutral, then
must be an exception else the
invores on this score are
closed

5 The short division,

The master if he can go the distance

common route - the way be
driven out by storm & so to avoid
ensuing, called what ever is over at
is not warranted against, for the
insurance must be made this custom
very summary (even the least)
and usual discharges. The in
surance from the point of depar
ture.

If it is intended to go to a number
of ports, the vessel must go to them in
the order mentioned in the
policy, be to a deviation, and
if not so ordered, in their ge
ographical order

and the evidence that the ship
abandoned — and if the evidence
would come along soon, they can't
ever take it again, and that's
clear from the evidence.

1. Probably sea means all in
the middle of the storm, found in
and big rising — and not an
individual ship arriving from
aboard as if she is driven on
shore & captured.

Evidence of a log at sea, after
arriving from the ship, the
she has been made off — and the
time must be reasonable as
every one must determine in
accordance to the length of the voyage.
The ship must say she is probably
lost from the time.

the iron blocks when they are
overboard cost the price of it new
if they are thrown overboard
they are iron and are not lost
not if they were lost the substance
from the length of rope and for
this is not direct

So eating by worms is not a
smell of the sea, the wear
a load of the vessel is not in
clutter, but if the cables or
any rigging are thrown over
to sea the vessel they are made
and in hole

off the vessel from Cape Ann
only seen a few of another ship
vessel, is not that it is under
removing from

Cap by fire here too the
mountain must not be

negligent, as he must not have
the plague on board and tell
of it from which cause they
burn her at other ailes

Lapp by capture

she must understand this head
in Cadex a Pride not kept
up, detention and it matters
not whether the copies be
lawful or unlawful, the
invasion is an invasion as
copies

She is Cadex, she may be
in the calig of London, &c
if they hear of her reception &
the voyage is not destroyed
they might abandon her - but
if before they abandon, they
hear of her reception & she can
be on her voyage they can

alone on her

The captain says so much
rather than let her
outlet the insured or lie
able to the insured ^Tconsols.
alone, if the captain ^Tconsols
was bona fide

Intention of all kinds
of all persons insured
again

But the intention must
arise from no fraud no
negligence of the
captain

By this people & mean
only a government, not a
mole

Respect to some men's conduct of
the matter the sin conduct
must be shown. The age in the
memorial is a ground on which
but a few men are using the
age in building the great dis-
cussion, a ground which is
useless.

The main contention against
the men's conduct

Respect to the age in not for
the men's conduct is shown to the
age, & great negligence is a ground
on the the men's conduct, for the
men's conduct does some thing
against his, but to the men's
conduct, & after, & men's
conduct.

a Capt must not disclose his
orders from the owner, unless
there is a sufficient reason for
it. The owner must call on
the Capt for doing so he is com-
mended with right or wrong

A charter party is for the use
of the ship, & the Capt
must take any orders from the
original owner

The unlawful act of the Pilot
must be one unlawful to the
owner (as to others, it is not)
and so meant at the time

by the captain, by which the
owners are damaged

If the probable consequence of
the Capt's act at the time would
be prejudicial to the owner,
the law says he found a crisis

ability in the captain, who he
might in reality himself
intend to benefit the owners

And if the act of the Captain
is such as to be presumed, the
owner would have commanded
it, and the Owner would not
be bound to call it an act, his
own barratrous act

Whereas it can be presumed
the owner would have comman-
ded the act, unless they
ought not when loss occurs
to call it fraud

... the ... of ...
... to ... or not to
...
...
... would be lost

"... This ...
... is the property ...
... that ...
... must pay the average
... the ...

... the reseller ...
... the owner of the ...
... did not contribute to it ...
... whose goods are lost ...
... if the ... finally ... in the
... some articles are taken into
... there is no average, for always
... the thing must be preserved ...
... throwing away the thing lost

If the market is stopped and the goods
cannot be sold, the insurance is liable
for the necessary wages

Each thing added on is to be
estimated at what they were
worth at the port where the goods
were taken in, & put out &c.

The insurers must pay the salvage
the portions of which in long is de-
termined by law. The notion in this country
that the insurer who takes up or covers the
thing from loss on the thing, but
he can have more than is reason-
able and if the goods were still the
insurers must be liable for the
unreasonable surplus

The insurance may abandon when
there is a total loss, i.e. it may
be made in favor of the insured by any thing
insured against

Nov 1198

Abandon on the Captains are as to
the insured the same (i.e.) when
there is a destruction and the owner
is not one of the destroyed and no
other, when or if there were still
a release, she may be abandoned
captured

A partial loss if the value of the
cargo is preserved, will not per-
mit the owner to abandon, the
loss must be general total

And if the voyage is free boat
altho the case is where it is well
bring it worth or value, still
the owners may abandon, so
this is the principle view is the
original voyage ~~and~~ free boat

The above mentioned must be made
an unreasonable time, & the first
opportunity. The insured have
after the above must the broker
be the agent of the insurers
and must as well as he can make
up to receive contrary orders from
the insurers.

By the way, the note at Chesh, the
captain is my not responsible
the impel condensation.

There is no form of abandonment
in it, any thing that is a policy
Where the policy is aggregate
no one article can be abandoned
without the others, but where the
articles are distinct & not insured
in the aggregate, one may be
abandoned.

14th Jan: I already carried it out
abandoned with it still

From the description of the
loss, you can only see on 5th of the
policy, this is always the
main loss

It is evident it is press's
gain evidence. There has been
a gross allegation

There is no loss has not been seen
the premium may be recovered
but the no risk has been seen, if
the premium was paid for an
unlawful voyage, I don't
be recovered from the law won't
help such a man, neither would
the law help the insurer, to get

this premium

if money has been paid after the
unlawful act, they agreed it
could be got back, but when
the money is paid and the
act is yet to be done - and the
promise upon to can be
cashed the money, if there no, for
this would tempt him to do
the act as soon as possible

Suppose the insuree was
fraudulent, so that they
could not recover of the in-
surer, can they get the premium
back, &c, for there was great
cheer in insuring, the
fraud & the rain that the L
never gave him, but would

only do justice -

Where the voyage is directed to a
certain port or place, the Port Premium
may be assessed, if the Port Premium
is not considered. But the words
the voyage shall not be assessed
to the Port Premium or themselves
to be

The going after a conveyance is always
considered distinct from the voyage
from the place of conveyance

If the insurance is "To and From",
the bid the port and from can be
considered as distinct

And when the premium is
referred back the insurers may
have a half per cent, except when
the sum is agreed not to have
insured

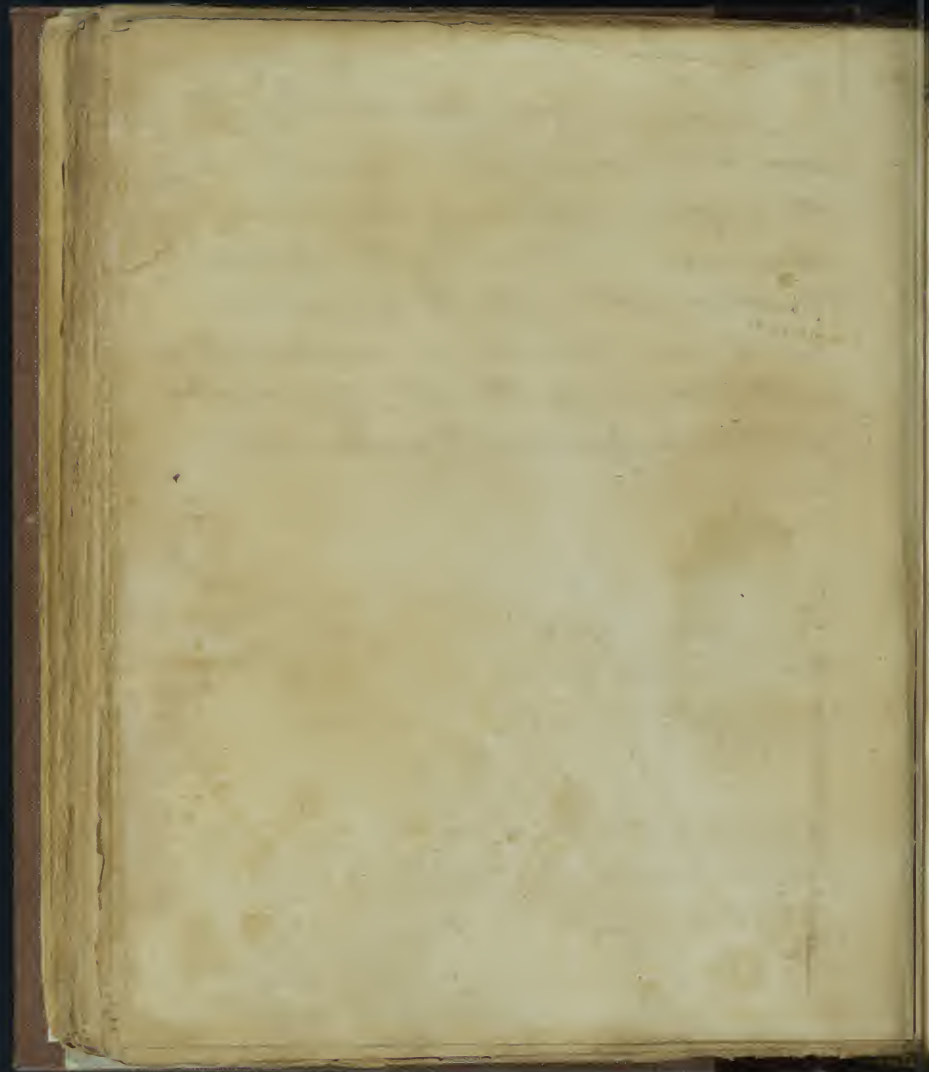
Transpondentia non long

the goods are pledged, but the
Ship is pledged in ballroom
bond - and in these cases there is
a lien formed on the thing pledged
and in these cases as in insurance
if there is no risk, the interest is
not to be paid, but only simple
interest, & for the time the lender
had the money

It appears as if it is that the money
is for the use of the ship and thus
has on the face of the contract
these bonds are subject to the same
rules as ⁱⁿ insurance

There is a covenant to go the voyage
makes no difference only simple
interest can be recovered if the risk
is not begun, But if this cov

amount is paid on, the damages
would be nominal. Sure too
the half percent may had over
the simple interest if the voyage
is not made. So the great in-
terest ceases to run, & mediately
as the liability of the pledge ceases
to their only simple interest
remains



In the case of a partial loss, do not
affect the case, of the total loss, as
as lost then the case may be recovered

March 30th

"The case is of the Captain, who is
not found or negligent, the loss is
insurable, but if the risk was
not taken ^{taken} ^{Eq. abt 377}
it may be with simple interest
may be recovered

In case of a partial loss, the Ballon
owner must pay his loss in a
must the freight & & & for he is
considered as mortgagee
Barth 123

Plan 8th in Eq. & in this case,
which covers of insurance but in
other cases in Eq. & Admiralty
Other applications are made to
Chancery 1st 457, 2nd 59

BB524

And the the parties say in the contract
they will not go to Law still they
may go to Law

2 Dec 1842, 1 Post 1849

Shival a permit to the oil on
brought on a Policy and the Policy
is a permit in the deal, it then
shows all the things were done
and then the promise to the
policy is a permit and the
document, so to the effect must have
an interest in the thing insured
the vessel sailed and under the
warranties then the Lof & G
some of the vessel insured against
and the Eff Co had notice of the
Lof a demand is but need not
be stated - breach of the promise

is not paying

In an adjusted copy the name is the same
The address in deed is not told
Thus the 2^d may be all. The action
may be brought in the name of the
private agent, The one intended
at the hiring of the Police is the one to
bring the action
338615, 2 Feb 240
47 Oct 123

The technical name of the person
at the copy need not be stated

2 LR 1349, 18 Aug 584

The action is now open to
Under the 2^d may have the
new war, as good, honest contract
or if any of the warrents
were not fulfilled

The 2^d may be all as tendered
to court, and now a presentment
to the next the is a thin case, a
warrent, domestic, tender is no place

The Def may limit in Court by pro-
tice Def & Em court to make after
the writ is served. But in Court
of common law, as in Def before
trial or action tried, so in Eng in Chancery
such Def would be good

If there are contracts with one Em
are illegal & void & notes, such as
in the war, the Em Def is then in
disobedience of the CLaw

670p357

In a Common Law Court before the in-
surer can prosecute his claim & one
of the underwriters, the Def must
engage to prosecute only one of the
insured, viz this one Def, if there
were Def interest upon it

When one insurer is sued, the other
insurer is a good evidence

~~27~~
The rest of the Policy if denied,
must be proved as all other writings
are

Shin 4th

And now, the Policy can't be
denied or varied by parol proof

Douglas

Mr. Webster has been in the habit
of being an agent, that is proof that

1 Est Dig 61

he is agent

The Captain's protest is good evidence
if he be dead
7702 p 158

The mention of a foreign Court
must be had in writing

The provision, cloaths & things
looked to the deck, must in the
policy be expressly mentioned

It is not the case in every instance
in which a person is insured, as
in the case of a person who is
insured for a short time, in which
case the person is not insured. This
is a case in which a person is insured
for a short time, in which case the
person is not insured. This is a case
in which a person is insured for a
short time, in which case the person
is not insured. This is a case in
which a person is insured for a short
time, in which case the person is not
insured. This is a case in which a
person is insured for a short time,
in which case the person is not insured.
1000 312, 1000 1000 1000
over a short time, this is not

Part 233
insured person here
If the insured gets insured on
a third, one life, the insured
must have some interest, and
Part 432

The Co. is total if any

ception the insured must not

die by drowning, suicide or fire
and the death must happen
within the year. The wound
is no matter

no man can get insured unless
he has certain interest, else he
is mere wager

2d Feb 554,

The law is better than the usage
because the insurers are not
under no more than a moral
obligation to regulate the business
themselves, "Civilization", in-
clude a Model of 688

As the insurance must have an
interest at the time of the loss
and not the murder or by
agreement in the policy, has
this transfer this to the person

2d Feb 554, 2d Feb 554

notes of the Cop must be
given as soon as possible
in connection

Bills of Exchange & L
At C^t chose could not be op-
posed, but Eq broke in on this
practice and protected the assign-
ment, tho' the original form
existing in the original name
with continuance, in C^t of Law

But always in C^t the assign-
ee Bankrupt might bring
this action on a chose

By L^d & M both legal & equities
take title immediately prop to
the assignee or merchant on

L^d & L^d are simple writings
when in the hands of a third
person is the same as a specialty
at C^t, but not before they are ne-
gated to a stranger

In C^t we have adopted the com-
mon law to the extent of the C^t
merchant

here in bon a fide in consideration
if the total, makes the contract wholly
void, & don't as in Eng give damage
only. but there must be no consid-
eration at all, viz French auction
bills - then buying horses called
y another Colonel

Sally Lett article may be stop in
transit if a third person has not
bought the thing honestly first

From the day of the date or from

Case 716

the date in Lett excludes that

15th, 829 2 Lett 6th, 1 Lett 81

first day, but at CL circumstances
determine this.

A bill of exchange is an order
from A to B that he will pay to C
on order, some money -

The Drawer makes the bill,
the Drawer to who it's sent, the
Payee one who is to receive the
money,

Then the payee sells his bill he
endorses it & the property
is passed to endorsee, If the Indee
Payee won't pay, the Payee looks
to the Dror and the Indee may
if he will immediately look to
the Dror, And he Let is not lia-
ble unless he endorses the bill
said it, The last Indee is called
the Holder

If the bill is payable to Bearer
he may demand of Dror

The Let presumes the Dree owns
the Dror, tho he may disprove it
the notes of hand negotiable are
Ch, Warringer, the new Law just

smaller as it is than the English

Usage in Eng & Can means one
month, Day of Grace are three years
except where the Bill is payable at
sight

In Can bills are not influenced by
Bill except by it

It is true that a bill must
be drawn by a merchant, but now
it may be drawn by any proper per-
son. Infants can bind themselves
by Specialty, now by this Bill,

Infants are bound only to the value
only in any case here on by spe-
cialty the consideration can be
inquired into, the whole bond
must be reviewed on nony, hence
a bond & sale bill can't lie over
a point

But if an infant's Bill be in
dorse, the endorser is bound

170p 20, Corth 82, 2 Cent

292, 2 Shaw 501, 2 Burr 630

If note is payable on order, it's
the same as if payable to promisee
or his order, now settled

2 Shaw 8, 10 Mo 286,

17 Blch 485, 3 Burr 1369,

Partners can bind themselves
except in commercial business
for each other, they can't bind
small loan in the name of the
firm without special order
from the other

But one partner to bind the other
must use the name of the firm
in their usual business

But if one partner draws a bill

in his own name, & the payee
supposes it really for the firm, if
it is their usual business, the firm
are bound

Exh Fig 5 & 4, Salt 126

L. O. 175

Signing by clerk or agent is the
same as that by the firm -

A Bill need have but two parties

Let A. B. not endorse, draw a Bill
on themselves, for C. & A. endorses
to B, is this proper endorsement
custom must determine this, for
now how else can the law be learnt

2. B. 12 10, 12 11

Bill, one privilege or privilege

170 445-487, 207 468

A Bill must be for money
and no collateral thing can be
the subject of negotiability

2nd 1271.

It must carry a personal credit
and not a demand any ^{on} particular
person, for such a fund can't
be negotiable, tho' it goes for paper

The fund may be mentioned, & still
the personal credit is the real
fund, & is then negotiable

10th 294, 2nd 316, 2nd 591.

L^o 1361, 3rd 307, 2nd 308 & 382,

L^o 1481, L^o 1555

The Bill must be for all events
and not on the happening of a con-
tingency, else it is not negotiable

2nd 1157, 2nd 213, 7th 242, 242

L^o 1362, 2nd 1396, 1583.

8th 363, 10th 323, 217, 281217

Physician certainly is not required, need
only be moral, i.e. if the thing always
has been

1st L 206, 1st L 91 205 & 202

5th L 1 1st L 10

A red value indeed is stated in the
Bill. ingen, the is a great ex in

Hard Repts 200.

After they are negotiated they are the
wallet & then can and not be of value

1st L 1012, 3rd L 207,

8th L 207, 1st L 497,

2nd L 353,

In the word order money, it is
sounded in 1st L & Com & Allo

2nd L 353,

It matters not whether the Indorse
be of an original consideration
or not Long 2702 & 83,

3
The comer of a property will
be open to a sale which it
comes to fraudulent, but it
differs from the Ch. Sec in
the call a fraud, which is void
whereas for the share, but in
the Bill fraud in the consider
action is often no injury to a third
holder, but Ch. Sec the share is not
negotiable, but by Bill and Policy
requires that a new bona fide
holder should be injured for then
the Bill would not negotiate
but it has restricted the Bill in
some cases so that the bill is
from fraudulent comes void;
whereas for it
whereas the St makes void where
trans, it will always be as

370p 454, Bow to 344, Long for 636,
1000p 445, 670p 54, Eop 27856

Aug 28, 1855

But then can't void it, or void
against the endorser the note is made
Law 34
for its no new contract between endor
der & endorser if endorser was holder
side

The auction of a bill is an
agreement to pay it to the payee
or his order who shall present it
and if he agrees before the bill
is drawn that he will accept
it, this is an sufficient acceptance
in all cases

The payee need not see the drawer
or if he says he will pay, & then won't
the holder nor see any one of
the endorsers immediately, or
the drawer or if he chose the auction
1st 415, 3 Dec 1853, 1 Polk 137
L. Ry 364, 5-72
and he has accepted it

The accept may be by parol or any
writing, & the Stg fraud doesn't
touch the parol agreement for
the promise is original, the
free promise to pay his own
debt for the 6th promise, he owes
the Drawer if he has accepted.

St 648, 2 Burr 1074,

A Bill may be accepted in part
or then to good pro tanto, but
this the payee is not obliged to
accept, this he may for the par.
& then for the rest look to the
Drawer.

Stg 214, 11 Wd 190

1703/4 182, Cant 574, 1 Br 548

2 Stg 1102

Anything that imports an accept
com is sufficient, if the bill is offer
there must be given a round denial

for if he won't accept it, why then he
should say so out and out, Is it good if
the Drawer writes to his agent to satisfy
the Bill more than or and less in
no acceptance, there is no implication
here

Ltr, 648, Call Dec 108
B. & P. 220

If the Drawer accepts the money pay
the Drawer may send him if he says
no to settle in his hands.

If order is used, there must be an en-
dorsement to make it negotiable, &
no holder is liable unless his name
is endorsed except him of ^{whom} ~~from~~ you
received it

A money Order endorsement may
be filled up by any ^{paying} ~~paying~~ Police
1207 545, 37 Apr 80, 3 Ber 1615

103 Apr 24 80

If there are no endorsers, the holder
may resort by CL principle, to him
from whom he got the Bill for sure

is void of contract

1 Shaw 156, 1 Palt 128

207 841,

Every indorser who by blotch
makes him also a drawer

Gen Rule of indorser who receives
from endorsee valuable consideration, he can not resist its au-
thority by going indorsement,

2 Burr 1207

hence the endorser don't make
order as did the first drawer,
still he as if he did

Coln Rep 311, 4 Burr 1815

~~There~~ ^{if} a bill has one endorsement so
that it becomes negotiable, if any
after that gets it the to him who
not endorse, still if he presents it
he will recover the drawee,
1 Burr 452, 1, 2 B 485—

Long

the drawee having filled up to him
self the blotch endorsement.

and endorsement of one of these bills
was in that Bill on endorsement
of Cash for the act of one is the act of
both,

Teacher can make endorsement his wife
bill given him before marriage,
but if he does it after the mar-
riage of Bancroft, then
of the administrator, so one who
has a legal title for a subsequent trust

Shs 410, 2 Nils Carth 3, 408

The bill is accepted in whole, it can't
be endorsed by holder in full for
want subject the acceptor to
his actions

2 Nils 409, 10th 68,

Drawer of hand is implied to
agree, that because the Drawer
is capable is to be found, will
accept, & will pay, and if these things

paid the Drafter is liable, as
Agent or his indorser,
The Drafter is liable for the bill
the interest, and mercantile
damages, that custom deter-
mines, & C. L. knows nothing
of, for C. L. would give only
simple interest, the dam-
ages by C. L. are different is
different courts this, they are
ten in Boston ten in NY
here there is difference in
the U. S.

The man (now) writes his name
on above his note, he binds him-
self for the bill
1st B 213

Can the Drafter if don't accept
be sued before the Bill is payable
yes he may, for he is indorser for
not accept things, by mere often
words will only redress damages,

Aug 949, ~~1849~~

The endorser makes the note an
engagement from his endorser
ment, as did the Drawer, and
if one of the endorsers is sued, & on
recovery, he may then sue, till
he somewhere gets satisfaction
in the ~~the~~ a more ~~more~~ somewhere
get the real money

2 Phos 441, 494, 3 Bar 80

87445
2 Blk 1935

The holder must present the
bill in a reasonable time
else he loses all his ^{rights}
presentment for acceptance
any time before it becomes
payable 17 Apr 717 is sufficient
And if the Bill is not accepted

The holder must inform
any one or all he intends to
return and see upon, he
can see only the one he informs
and this notice must import
that the holder considers him-
self

17 Br 712, 2 Br 442,

2 Br 669,

Noting non ample or non
payment must be made the
first Post or if no Post the first oppor-
tunity,

But if Drawer don't accept & have
no effect in his hand, the Payee
or holder may see the maker
17 Br 410

even without notice, but then
the endorser, except ones own
must have the usual notice

The Form of notice is tendered only
to foreign bills of exchange and
this must be received exactly
17th Dec 1870

If the Drawer don't accept, the
holder gets a N. Public to carry
it to the Drawer & offer it, & if he
don't then accept, he draws up
all the facts on that tender offered
by holder and then nominates \$88, and
all this must be in the lower of

Oct 6 2.71

usual business - This protest
must be sent the exp. mail,
& that P. O. must keep a copy,
which alone is evidence of the
non acceptance

If Drawer accepts and don't pay
The same form must be sent back

and now the Bill must be sent
back

For if the Bill is accepted, & not
yet regaled, still by M R if the
Drawer is about to fail, the holder
may demand better security
at the now there can be no such
now, & if security is not given
there must be an immediate
protest

18 Aug 1795

And if the Drawer wont accept
any Goods, else may by the Law
make a contract between
Drawer & Drawer this is by
the Merchant, but still the
holder must send back a protest
for Drawer did not accept
If Drawer accepts, the protest can never
be drawn, but, till the Drawer

could not see him unless the Duke
had affairs for else there was no
consideration,

But if Damer accepts and says when
he don't or does see any thing, he
can see the Governor in the night

An acceptance made
in the receipt of a paper;
for acceptor makes a complete
contract, if drawer is becoming
a bankrupt, the paper in law
can release him self, else he might
loose his debt, then he must pro-
tect his credit, he loses his security
and a moral discharge of the
the right of action has accrued
is sufficient, the rest of the

Doing

No length of time but the ac-
ception discharges the
drawer, unless the holder
comes to & reaches some sort
of releasing with the acceptor

The discharge covers in all
cases, (i.e.) when the place is
where the bill is accepted.

1733

If drawer accepts only part, still
the holder must protest or keep
all surely. The Bill must be
accepted according to its tenor

By 744. Co 18256,

But if indorser pays only part
still drawer is forced to pay the
rest. But then drawer is liable
as to two actions for the two
parts, and contracts are not to
be set up. There are differ-
ent opinions on this subject.
Some say indorser contracting only
half By 745 - 7 Beav. no.

as one can be subject to two
actions, for he may be to twenty
at that rate

It is now not used held that
the drawer ^{must be sued} ~~must be sued~~ before
the indorser 2 Beav 669

1 L. Ry 443 but now either may
be done immediately

Where there is Privilege of Contract
Ct as well as L. Ct will give
remedy, there is never privilege
of contract except between the
immediate parties whether
there is any endorsement or not
every blank endorsement may be
filled up and so made im-
mediate

Forms of action vide 3 Bos 614

1 L. Ry 21, 145, 1 Phil 129, 189,

Every thing necessary to give
a legal right of recovery must
be stated in dec.

2 How 180, 4 W 2, L. Ry 362

1 W 42, 1356, 2 L. Ry 817,

1 Phil 185, Darcy

great question must then be
a promise made in the deed or
well a more statement of the
fact on which the promise is
predicated, raise the promise
to Pleas the promise is a more
inference of law and at all
it is not necessary to state the
promise, but as at CR the
Jury say it ought not to be

By 538, 12th 128. Carthrig

It is then at all & CR may
at the same time pursue all
his remedies, tho' at CR gener-
ally the object of the action is
different.

In the 1st will get his costs
on all his actions, tho' but one
satisfaction

But if Beck has not too many
excuses, he abuses his right
is liable to Ct for contempt

1 Bel 749, 1235, 2 Very

115, 1 Stg 515,

If Trawee asserts this is a fear
giving, in no matter, for the law
presumes he knows the writ-
ting of his correspondents, hence
~ A Trawee this hand writing
must never be proved when seen
by holder 1 Stg 414, 2 Stg 745, 3 Stg 745

1954, 1 B O p 6394, 17 B p 384,

Proof of the Bill is prima
facie evidence of its delivery if
it is endorsed to the Order
The hand writing of the endorser
must be proved if the denied

17 B p 354

If the negotiable to Bearer, & the
Drawer, only his hand need be
proved

More propriety by Bearer, is
former fair or presumption
under that the Bearer's evidence
he is has a right of action

12 Bz 176, 444, Bur 675, 2 Bz 279

If Drawer accepts, & is need by Drawer
to prove more than is a consid-
eration, & the onus probandi
is for the Plaintiff, this is an unusual
consequence 10 Bz 38, 11 Bz 84

No indorser can sue merely be-
cause he is liable, but, till

2 Bz 341

if he will go and pay the money
then he may immediately
sue —

A Protest is full proof in it-
self, but suppose I find you
a forger, who knows the No-
taries hand, do you need any
more that he is a Notary

Edw. Esq. 118, 37th, p. 249
301,

Bank Bills are not tender if there
was an objection to them at
that time, as Bank Bills, the
objection must be founded on
that ground

Burk 452, 450, 37th, 55th

or check
I have her a note & he must pay
within twenty four hours in the
same city

24th, 916, 24th, 1175

Dang, 1st B. 1,

The rule that Facts must not be
shown on a particular find
don't apply to notes of business

And Mr. Brown, is a noble man in
all event. By the ~~former~~ ^{former} ~~and~~
said Mr. Brown, who was the 4th
man, as my is after removed

One can still keep a libant ~~book~~
with which
either not that's foreign, or not
allowed by Bell

1 Salts 430. or 409.

Partnership

This is a joint contract with
one or more, to share in the
business, the loss and gain
The loss is often not known
but when they are discovered
they are equally liable —

So when one lets his name be
used with others, to enlarge credit
he does not consider himself
a partner, until he is liable

For interest
If one lets money be paid out
of the profits, i.e. to share the
gain, he is a partner, so that
by name, others differ and say
there must be an agreement
to share the loss and this is not

used. Jan 30, 1803, 30 Nov 1803,
1803 & 1808 1st to 3rd 3rd 3rd, 1st to 2nd,

These merchants are too antient
common - and when one dies
his word goes to the Ex or etc, the
the right of action survives to the
survivor & he alone can be sued
while he lives - all shares are his
but he must account with the
Ex

Salh 444, 3709 to 2139, 1 show
185, 188, 190.

The survivor must have the notes
back 53 for they are to be sued
upon.

They the survivors take all the
goods on board, Is not the firm
disolved? And why is not the Ex
the same as the deceased as
to right of property, he differs
from him only in form of joint

17, The survivor is a Comprohet
& can not stand, & he, less shew

Then the Co is liable to be sued
on the judgment & the surviving part-
ners — The same thing must
be a bill brought at, least now and
in Cal., Co is sued on that judgment
for debt or may be liable on share
partners of them 255, & Union 1848,
6 Feb 1848,

The insolvency of one partner only
may come in non fir's property
in the firm, before insolvency

When the Partnership is insolvent
the property of each partner is
first liable for his private
debts, and the residue goes to
the firm till all the firm
debts are paid —

The Company's estate or accounts
is first liable to company
creditors, and the surplus if
any is divided & then private
creditors take it, for this is

now private property

Where there is no insolvency,
the joint property is liable
for private debts, but if they are
indolent the joint debts must
be first paid

The Law no Bankrupt laws
in this country, but ~~our~~ ^{our} insol-
vent laws are the same in na-
ture

Before insolvency, joint and
~~private debts~~ ^{property} is liable
for joint debts, or private debts
to the creditor

Where the joint property is
taken before insolvency for
private debts, there are three
methods of procedure now
in use

1st Lying on twice as much as the
debt and sell it and refund half
But of Rever I dont like to have
one man sell the property of
another who dont owe him a
cent & this make him a trustee
but. This is practised, this often
misapplied —

2nd This method is better where it
can be done — Where the subject
can be divided as two barrels
of flour, lying on two & sell one
then you dont sell another
property and only displace the
partnership as to one barrel
this is now very common

3rd
Lying on double as before & sell
the interest in a common
share with the property,

but in this case the property
must settle as much, that is an
objection —

If Owen dislikes the first, and is
not out of case if not entirely, the
2^d is the best, but we generally use
the last we sell in common,
the 1st is inconvenient where the
subject can be divided and in such
a case the 2^d method can be pursued

When our partners have agreed on
settlement
account is done the other, however
are in the order of settlement, but in the
other case, Account or Bill is
the remedy.
2^d of Bk 458

After disposition of Partners bill
given to our partners to
settle all the debts & — and after
disposition, we can make no set

Statement but in his own
name and, the injured partner
1st B 155, 2d B 188,
& must look to his partner
for his part, on the other party
contract

If a Partner in the company
buys or contracts in private
capacity, & the thing goes really
into the firm, the firm is
not known at the owner's
liability, for the Partner if he
said any thing take a lie

4 B 705, 4 B 711, 1st B 45—

Partner disputation, notice is
not given one partner may
still bind the other. Still
what is notice, long and
liability is not in previous
notice as to matters of public
notoriety, but I am sure the
man takes his notice,

notice is not, a notice

Public notaries is sufficient
but what that is, circumstances
must determine,

Where the Ct decide they decide
that there really was notice
often because there might be
in seeing so much notice
has been taken

At 83 secretly share in each
other stores, & in particular
in Capes, as to third persons
a partnership, and ^{the} secret contract
is nothing, 87 Nov 682, 2 11 83

247, June, 371

The Factor

Here a factor is one employed by a merchant in a foreign country, to transact his mercantile business. He acts under a commission with which he must strictly comply.

The law between the principal and factor is the same whether

the factor is known or not, Commissions are general and special, a general commission is to do just as he would for his self and is valid only for gross neglect, for nothing else
yet but 20%.

A special commission is to sell to disburse or buy here he can't take credit, but must at the time take care for goods, a special

...ipion, dont allow credit
unless it is specially stated

Letter 100, 3 Penn 62, 8

The O & Factory used to settle by account
but now generally, the settlement
is made in Chancery by Bill

Often an man is false for dif-
ferent persons not connected with
each other - the Factor is neither,
more than Bailey

True of the Factor & Principle. When
known, are in the visible for
any fraud in the subject noted, and
that the Factor did not know
of the fraud but took the repre-
sentations as given by the prin-
ciple
6740 8, 60 Feb 1423.

And in said if Factor can avoidly
know the duties, still he may

charge the duties to his Principles, of Principle these are obvious
cases & not to the in correct an
Principle

162 Co. 25. 80 2 55

Bar abt 1st Factor

Travelling Factor is by Principle, but
where the Fact is ~~not~~ known
as such he can't place his Trust
w/ Principle for his own duties

Strg 1178, 1182,

When the Factor is known as
such, the the corruption is
surpassed, till the Principle
is liable, for the overdue don't
know the start of the corruption
till the Factor is liable to

2 Vern 688, 2 Vesp 239

Ann 489,

When Fact is known, & the Prin
ciple thinks he is liable, the

could may order the debtors
to pay him & not the Factor as
they must obey, but here the Factor
must have been known as such

Law 255

at the time of the contract, also
the Primitive court considered
the payment

So by Law the Factor has been on
the goods for the commission
and any other debt whatever of
his own

Barb 89

If Fact sells half his own & half
his Principle, first he must
pay his Principle before he
pay himself

The Factor dis or breach, the Prin
ciple's goods must be returned
if this subject can be distinguished
as goods & money in bag

on any thing, for which train
will lie, and if it can't be
known it goes to the Ex or
etc & they must account for
said in relation, & before he
was more agent

2 Nov 63, Salt, 80,

Goods in Transit

This is a MR principle
entirely, but by CL the thing
not immediately

They ^{this} may be stored any time
before the real owner gets it
or his agent who is to receive
~~the~~ it, who is to look at

2 Nov 63, Salt 505

But if a third person has pur-
chased them, they can't at all
be stored in transit

27 Nov 63, Salt 183,

Seaman wages

Where there is no contract on
when there is tis no matter,
the wages must be paid or in
trust run if dismonied, at the
port of delivery — But now
gen tis settled by St different from
the

2 St 600, 2 Vern 628

1 St 129, Burr 184L

If the vessel is lost, sailor keeps
his wages, but if tis lost on inward
voyage, the wages are due, for
they were due at the port of delivery

2 Vern 628, 1 St 129

3 Burr L by 576, 1639

the St

1399

says after they should be paid at
that port, I mean the outward
wages,

They forfeit their wages if they
make dis turbance or mutiny
or rebellion & will feel consequence
of absence — if dangerous

17th to 20th

they may be put on shore &
if necessary on an uninhabited
island
And this disabled crew may
have their wages
at \$600

Charter Parties

This is a contract by which one
hires a vessel, two kinds

1st When one engages another to
hire a vessel to carry his goods, the
owner gets Captain &c and has
all the superintendence himself

2^d When the owner hires the vessel
and gives no more, to him for
the time, this is most usual

The money given is the freight

In the first case, the whole use of
the vessel is engaged ^{by the freighter} & not at least
in the latter the vessel itself

The hire is so much per ton per
the whole for a term certain
for the outward voyage or both
and if the vessel is lost, the freighter
is lost and the freighter cannot
claim — if the owner has returned
if the voyage was divided, she is
lost, the outward freightment
to be paid, or the seaman's wages
but if two entire then she
must get home safe or all freight
is lost

2 Vent 212

In the first case, if the master
has conducted improperly and the
goods are lost

The Freight is discharged as
 was the owner's servant, but in
 the last case where the Captain is
 the ^{Freighter's} ~~owner's~~ agent, his ~~last~~ conduct
 don't release the freighter —

In the first case if the vessel is
 stopped by storm &c, the freighter
 may take out his goods & send
 them on as he can, and then
 pay only a reasonable portion
 but if Captain conducts im-
 properly, he may if necessary
 take them out without paying
 any proportion. He too in this case
 the freighter or owner may be off
 from their bargain in time,
 and in one case the freighter forfeit
 his cargoes ^{which is always true} and the Owner as much
 too if he chooses to be off, This is so
 Bur 882, 888,
 by h & h, not h & h

In the first case, the owner is liable
for all misconduct of captain, but
not for inevitable accident

If T leases to B for ten years, & L freight
this vessel of B, A is still will be
liable, as by L 11 and no contract
between A & B will avoid this
liability, always where one is
liable if he leases, in this case he
is liable without leasing in Eng
his liability by L only to the amount
of the ship, but this limitation of liability
does not extend to boats & lighters, or common
carriers & not governed by L 11, then
in persons not out at sea & are ships
barriers

1. Trust 140, 238, 1. Had 85

2. Leases 69, L 11 918.

L & M allows all masters of
vessels when abroad to get every
thing necessary and the master &
owner (perhaps perhaps ^{for} no interest in
this voyage) is liable, the master
is liable too, by L & M not by L, the
master may mortgage or pledge
the ship, & then they have a lien
on it, ~~if the master is~~, & no contract
of the owner will release him
Poliz says strangers may look
to the owner

2 Fern 443, Com 635,
17 Br 33, 108, 144 B 119,
Hard 24 85, 195, 375,

The charterer is liable too, if he
is of the last (2d) class, i.e. the owner
for a time, but not if he had only
the exclusion as in the first
class

When there are many ^{owned} ~~owned~~, the
majority of interest shall direct
the voyage — but shall and
all unite if they don't object, hence
they must have notice, they must
say they won't have any thing to
do with it. 1 Cont 226, 27 By 235
the voyage, else they may share in the profits
2. 188 643
we would be forced to share the loss
and if minority won't help to loan
out, the majority may have all
the interest the advantage, if they
will give security in a securi-
tely, to pay them selves all
loss
L 87 1285, 1284 473
6 Cont 62,

When the minority could claim
the profits, they may be compelled
to pay their portion of the loss
1 Cont 297,

Settlement must be made
by majority of owners & not enter
est as in ordering the voyage

1 March 455

Suppose the master Brown or
Mudge the ship ^d don't do it
for merceries, is the owner
bound, he is if the lender did

2 Dec 263

not know but was for mercer-
ies

Notes

There may be partnership where
one finds stock and the other his ser-
vies. But to constitute the mercer-
ies, the man whose
handed in the lops, the man whose
services are his stock, must be to have
only his share of the good debts & the
monies collected, so that he will
lose or gain as there are good & bad

acts. But if he is to have his share
of the gross gains, is a certain por-
tion of all they become entitled to,
whether it can be collected or not
then he is no partner, for ~~he don't~~
he don't participate in the partner-
ship, sharing as this actually does,
but he may alone collect his portion
if he can and leave it all himself.
tho it turns out that the other por-
tions are not to be got, one cent -

1 Barnphl 329, 2 Ditts 97,

4 Insp & D.P.R. 182, 4 East 114,

All Ch bills of Exch, both foreign & inland
and prom 7 notes are negotiable, see
1 Church Rep Appendix, In Con, by C. L., all
bills of Exch, are negotiable, but notes
except by St here are not negotiable
but for those purposes, for which
have had ~~at~~ supplanted Ch.

1877-1878

1877-1878
1878-1879

0

Criminal Law

burns are with consciousness or omission of St or G.L., mis-
deemeanor means something
other than a crime, as now
entirely new offender, & the mean-
ing of strictly, intentional
is nothing in Law, but an at-
tempt will be punished, an
attempt to commit murder
or by poison, (i.e. not assault &
battery) is a misdeemeanor
a person's breach of which the
Jury may find it

If St forbids, a thing, but does not
state a penalty, this is no
crime, but a misdeemeanor
then could be no indictment
In most cases there is a

C
private wrong, but in most
atrocious crimes, the private
injury or claim is merged
I don't like this merger

When the private suit is brought
private damages are the only
rule, and no public injury, the
publicity often enhances the pri-
vate injury as whipping, or in
common - a private man
cannot require or claim vic-
tims damages - but is
sensible the public concern
why then shall not vic-
tims damages be given in
the private suit, to prevent
others

In murder there must of
course be a merger, for the
dead man can't sue.

And in the other great offences
originally all the property
of the offender from the time
of the offence was forfeited to
the public, hence an action
would be nugatory, and so
too originally the body was
forfeited, but in Eng the old
form continues. — But in
this country, goods & body were
never forfeited hence now the
private action may be brought
except in murder where it con-
tinue, & the the Public in other cases
will often have a claim to the
body, to imprisonment &c &c &c

Crim. male in a male
prohibited, the first rare than
previous to all society, and would
be equally criminal the then
was ^{no} law now small

The last is a more positive, & regulation, all growing out of Society - Some of (the best) portables of both characters, and these generally are considered as regulation in re

His said one is much better for moral prohibition, because he is presumed to give his opinion of them, no reason, men must volens volens be punished

The object of Crimes Law is to alter not to reform, hence immediate the more strict punishment is often more effectual, than distant or uncertain, more severe ones

Some will say the morality of a st prohibition, is in a crime before in conscience, Law is

not made to raise a revenue
to an offence in consequence,
for society can't live by wrong
methods, but by laws & their
obedience

If crime is man's habit at
St which was at C.L. the St
don't per se repeal the C.L.
issue the indictment may
be founded on either, or first
by St and if failure then by
C.L. as where the St was limited
by time, or proper St void
then court can go to

But if St fixes a life man's
must then was by C.L. the
C.L. is per se repealed, but if
greater, then both still
is together unless differently
expressed

at crime requires an act

and a will under a regular
understanding

But if you is coerced, he is excused
in no no will

As to most of under standing -
this does not apply to such under
standing, but even the Jury must
be satisfied at that time, the
offender could not distinguish
between right & wrong at the
time of the offence, if he ~~had~~ ^{could} not
he is excused - Infants under
7 are guilty of an offence
art. 14. They stand as all others
is, the period from 7 to 14 is
doubtful & not in Eng law
as in civil law. Idiots
lunatics & Infants are all alike
but Idiots from drunkenness
is no excuse (i.e.) when the

lunacy is immediate, i.e. tem-
porary, from that immediate
cause, if a man might murder
innocently when drunk, men
would get drunk to on purpose
Policy then is the ground of the
distinction not
distinction of excessing this

lunacy, for at the time the
is here really, no will similar
a regular understanding
time in this abstract act, there
is no criminality, the crime
notly consist in producing
the lunacy

There must be will a will
or understanding, the in
pursuit of anything unlawful
wonty will is no excuse, this
if in this case life is taken, it's
not murder, but a misdeamen
or. If you don't like to say dis-
tinction concerning, or shop
one fellow.

There is no motherhood, & there
it don't have influence, but
in lawful pursuit, there must
be proper ^{ordinary} care, but the ex-
cessive & sometimes wil-
dness, makes a crime, as that the
really murder, or apt & battery

There may be will & understand-
ing and will a mistake in fact
or shooting your friend instead
of the burglar — here the shooting
was lawful

A woman (but a wife) is excused
when commanded to do any less
lawful act, and does it, but if the
wife does in company with her
husband any thing, male prohibi-
tion, etc., in which he is engaged too
she is excused, but not in male
in one, this case of the wife is

not a defense

and that in this case is carried
under, makes prohibited the not
robbery &c -

If an enemy tho in our country
forces our men into the field, this
is civil subjection, which is con-
sidered as it to all else

A man of station may still
infore concerning the not in-
ter, from policy

In Treason there are no excep-
tions, all or principles

It is in all times those who are
on the spot, present, for this pur-
pose, are principles - as too
a principle may be absent ten
times or laying down treason
a traitor, letting off a burst,
but when these things were
done he must be present

Temporary before the crime is com-
mitted present at the crime, who or-
ders or commands, and this per-
son may be liable for all dam-
ages arising from the thing done, or
attempted, or the thing only in sub-
stance done —

Temporary after fact, he helps to an
escape; conceals him &c. This does
not include any temporary charitable
donations to him

Hals 518, 2 How 319,

Hals 520,

But the act ^{or crime} must be complete
at the time, this ~~is~~ ^{is} temporary gives
no liability

A wife may help her husband
after the crime & not be accessory,
the, this holds as to no others

A & L Principles & Accessories
are mentioned alike

The St have often differed their
punishment, how often, the
distinction is important, but
at 62 the Prisoners must be
tried & condemned before the Au-
thority can be tried, hence the
importance of this distinction.

1 Hale 625, 462 n. 61

Malice is often misapplied to make
a crime, but this word is used
differently in law from common
 parlance, it is best expressed by
the Latin word malitia, it
means wickedness, bad motive
which in consequence, to constitute
the crime there must be some
thing to show the unconscionable
heart, (not a sudden gust of
passion) a wicked heart, as a pre-
meditated heart.

They in Eng was when there
was forbidding of goods, lands &
all were capital, the office
of clergy might be
this is small of grain only
In this country we retain & apply
the norms as before, but the effects
now are very different

1773 at C. Hall

¹⁷⁷³
This is the malicious and evil
act burning the house of another

1 March 185

Out houses within the curtilage
in the house, the curtilage means
if they are so near or connected
as to catch & all burn in, by so burn-
ing a barn in the field, in long
is arson

46 L. 112, 4 Bar 122, 1,

1 Hawth 166

It must be at 6h burning, and the
man house to make arson, but
if he burns his own & inclines
at the time to burn his neighbor
house, ^{he is not} arson, ^{but} if he wishes to
burn his own, & it, ^{only} ^{as} near
as burning his neighbor, ^{as} this
thing is unlawful, & his neighbor
burnt is arson, 1 Hawth 166

burnt is arson, his own

The house who loses and then burns
is guilty of arson, for the house
belongs to them all before, before
the house must be burnt, the
least possible burn from malice
is sufficient.

1 Hawth 162, 43 & 21

The thing must be done voluntarily
to constitute malice

Plowd 475,

ex Lepus & Lepus both over the narrow
light in bay it is under the Barron in
field, slacks of bay —

The Con of St. the person must be
16 years old, & be learning, app. have
not merely do nothing —

The person must at Ch is dead
but in Con if in the night
or under such circumstances
as life is endangered to be
capital, but if two men
hold on in the cray perhaps
to suggest person's name

Burg Carey

This is in my at here showing open
a house, with intent to commit
felony — 1, 11th 159

1. 'Tis then, the time,

It must be in the night time of
when there is not light enough
to distinguish ^{or} a person from
another it may be day light &
formerly was held, from. Seen
to seen, now it means day light
merely

96th 6, 34, & more Sept 660

1 Hawk 100, 6 Elis 583

96th 66,

The Place I must be a
man's house at C.R., & has
the same inside the room as
in a room at C.R. I mean the same
the the principle is not the
same, here the house must be
near so as to cause disturbance
and alarm from danger
at C.R. making a cheer it is
being long, this then is an exception

1 Hawk 100,

Suppose the house is built in
but half the year, the Burglary
for there is property —

460 to 40

It more than is no dwelling
house

3 The manner

There must be a breaking and
an entry — The house must be
shut else its only a trespass

1 Hawk 150

The gaining down a chimney is
burglary

1 Hawk 150, 6 Cr. 225

to pass a stick or pole into
the house for a breaking, a
breaking is merely getting into
a house that is fastened,

There must too be an entry, with
as by any part of him or a mere

instrument & or more entries by
key & or book,

1st Aug. 1860

One who keeps a note, is consid-
ered a coloring tax. He is a
principal,

There is another and much more
this is supplies & break & solid

Str. 881,

It is intent seems to be to commit
a felony, that is, supplies the orders
should possibly be executed

Shaw 83, Str. 281, & Shaw

104
or Gov, Str Bury is not to be shaking
of measures & merchandise & this
includes a ballot

The President & at Ch & in de at it,

in Gov in measures at, for the first
Gov Byran, for the third offense, for Lib,
and in the second agreement in ident to measures
the proceeding offense measures & repa

Perjury at CL

In a multifarious false swearing,
to an important point, is a
matter of law, when under
a th from a proper mission to

The facts have must be voluntary
or intentional

5 th had 315, 10 th ad 195

1 Sal 513, 1 th aw 319

It must recede to some pre
ceding in a 8 of Justice, or
something relation to a 8
a distinction or taking disposition
1 th aw 319

And it may not be relation to a
8 of Justice, this distinction is
probably random any, certainly
not in law as law at liberals

Swearing of the Deceit. The oath
is not held to to no present
matters, i.e., it must to a matter
relation to Bt of justice

1 Hawk 719

John Muron is not guilty of
murder. The he does not present
all persons

8 Ellis 108 909

1855 509 1 Roll 39

4. Roll 57, 257

The oath too must be administered
by an authorized officer.

Home owner the truth what
is in the end truth, the he
thought at the time it was
different, still in surgery
1 Hawk 520

Can he swear falsely as to his
conscience

Home owner is a honest man
critical, must suppose the

man himself, in a bad, material
and intentionally swears false
to Green & Davis then is perjury

All motions to remove one to
the other, matter not men-
tioned to the court, but only
to raise a question in his honor
C. Elver, 502, 1844 1845. This
is perjury South 4th 2, Palm 1845,
early 1846 1847

Statistical means, relation
for them to one link in the chain

L. B. 258, 588

Subordination of Perjury is made to
the same as is Perjury

By C. L. now of London, the perjury
ment is a fine, discretionary
imprisonment, & in a trait
ever to be a crime, The law can
have the C. L.

There must be a fraudulent
view, intention to injure some
one, something in present
justice

More 655.

By an omission of a material
fact in an instrument, or a
copy, of Beuages, for does not
the instrument have a frau-
dulent, unjust effect, & this
can be done by omission as
well as commission, in the
omission, the whole instru-
ment is forged
18th Nov 39

In Case of St. John to every
writing authentic, not con-
cerning the intercourse of men
their business

18th Nov 39 is present was
found, but in Case of St. John
death, in Case of St. John

Robbery may be defined, the violent and fraudulent
and in fear taking property from one person or
persons

Robbery on High Seas

This always includes stealing
in a felonious, and violent
by taking away one others
property, the person used
with the fear, this fear is
necessary to make it robbery

The value of the article is no
matter, the fear is not stated
but this is always inferred if

1 Hall 147

Force must be used

The object must be felonious
Violence i.e. restraining or
taking must be used

1 Hawk 167

This crime when once committed
cant be merged, by giving back
the money

The act of taking, i.e. getting
must be proved, he must

1 Hall 145

out the thing into his hands
at all watching in ^{this} business
are principles

14th March 1848

John must be from the par-
son, not that it must be attached
to him in perfect loyalty, it means
caring in his presence

18th March 1848

14th March 1848

It must be in consequence of
fear, as will be inferred from
the violence, and the violence
on the occasion the taking,
fear or violence is strong enough
it is sufficient

16th March 1848

Let the witness, to tell a man
you will swear a crime is
being, if he don't give up his
property

Phillips 70

an attempt to get my profits
from another is not robbery,
you here is no fraud intended

In Eng by C. L. the murder is the
death, in Can is the part

Peter Larceny

Larceny really includes robbery

This is simple & common

The cost is robbery & burglary

The first is robbery

This is take and grow, which
distinction prevails in some

states the not in Can, the dis-
tinction relates only to the person
in possession

What is Simple Larceny?

It is the felonious & fraudulent
taking & carrying away the
personal goods of another, the
not from his house or person

"The doctrine must be fraudulent
i.e., intention to do fraud, to con-
stitute the fraud

That the time a thing is stolen
the B. & C. did not think about
stealing the thing, the B. runs
with
it, he is not theft, but if at
the time he intended to carry
off or run away, he theft if he
ally goes off, the B. may be taken
the fraud animus exists at the
time, this is the point to stand
on, no mistake is of no avail
The Law says in this case there
is no bailment, no delivery
(the B. & C. might be in mistake)
And it matters not if the B. is
induced by a sale
In these cases, the B. & C. must

be necessary to the Bleed as
acting a house for him

If the Bleed is of no benefit to
the Bleed it is a disproof of the
Hypothesis, the the anxious is not
at the time of the Bleed, the
it would be difficult to prove
this anxious at the time since
the Bleed requires to obtain
the Bleed not the Bleed
I fear the current of authorities
is that this would be the
for the the of the Bleed is
still the the of Bleed and
when I look or state it, at that
time there was anxious the and
here the the 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 1346, 1347, 1348, 1349, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 1566, 1567, 1568, 1569, 1570, 1571, 1572, 1573, 1574, 1575, 1576, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1616, 1617, 1618, 1619, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640, 1641, 1642, 1643, 1644, 1645, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1663, 1664, 1665, 1666, 1667, 1668, 1669, 1670, 1671, 1672, 1673, 1674, 1675, 1676, 1677, 1678, 1679, 1680, 1681, 1682, 1683, 1684, 1685, 1686, 1687, 1688, 1689, 1690, 1691, 1692, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713, 1714, 1715, 1716, 1717, 1718, 1719, 1720, 1721, 1722, 1723, 1724, 1725, 1726, 1727, 1728, 1729, 1730, 1731, 1732, 1733, 1734, 1735, 1736, 1737, 1738, 1739, 1740, 1741, 1742, 1743, 1744, 1745, 1746, 1747, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1755, 1756, 1757, 1758, 1759, 1760, 1761, 1762, 1763, 1764, 1765, 1766, 1767, 1768, 1769, 1770, 1771, 1772, 1773, 1774, 1775, 1776, 1777, 1778, 1779, 1780, 1781, 1782, 1783, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1791, 1792, 1793, 1794, 1795, 1796, 1797, 1798, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202,

Get steel from B & then C from A
B more in case A, for C's proper use
is B's in effect
11th Nov 1835

Excitements are local, i.e. in
the same County where it was
made done, this sad stealing is
an exception to this rule, & then
; think not, for whenever he goes
he continues stealing, this could
be in murder, wherever he goes
with the thing he continues
stealing — as if a riot is contin-
ued through a number of
Counties

Then must be a carrying
down
This is any motion by
which the thing is moved from
its place, as looks from the
front, Gen. vol. sheets 85

shining wool — missing such
a hail of goods — getting a
ring from a lady's husband
who is in her will
Hawth 141. Selling 318

The wife can't ~~be~~ steal from
her husband, for her prop-
erty is his —

her share one third to ^{me} ~~get~~
his life, of I don't think this
is right, tho' it is not decided

The property must be
personal

Hawth 141, 1st Nov 89,

1st Dec 187, 2d Dec 187,

Choses in action are not
the best security of it, it is
our evidence of a debt, &
of no use to the ~~creditor~~ but
this don't hold as to nego-
tiable instrument,

in Eng ^{show in action} ~~ing~~ ^{the} ~~the~~ ^{theft} ~~to~~ ^{to} ~~steal~~ ^{steal} ~~any~~ ^{any}
and therefore It in Law

have made this theft,

is theft to steal a Banks bill
for for money nearness, there
are ~~a~~ currency

1thaw 147, 8 Col 33

Creators of which are not
subjects of theft or dogs, cats
squirrels

7 Col 18,

Fishing in ones fishery, is not
theft, as true nopp, for they are
not in till be has caught
them, Best if he has a private
pond, they are his, before caught
1thaw 144, 104

and ~~the~~ the theft to catch them

Stealing from the Person
is theft, from the house is theft
and the theft, if the door is

open in the night, the
theft, and know of no dis-
tinction in this it is
Eng. these two thefts are
not allowed the benefit
of clergy, and in this only do
they differ from all other
theft

Piracy

Any theft at sea with at-
tend is felony, is Piracy if
not done by some on board

1 Hawk 152, 2 Wood

421

It may be robbery or theft
is by violence or secretly

The inmates of the vessel, are
guilty of embarking —

When Piracy is done by
authority of a nation, it

is not Piracy
to

At C L the Culprit is liable
only in a Admiralty, when
there is no jury, but now
in Eng & this Country, the ~~at~~
~~the~~ crime is tried by Jury in
Admiralty in Eng & no would
be in this Country, the ~~the~~
it dont generally have a Jury
& never can at C L but does by
custom

Privat Difference the Queen

This a disturbance of the peace
by three or more men in a vi
olent ^{maner} ~~maner~~ to do some private
business in private matters and they
do it 1 that 293

it
it must be a disturbance of
the peace

2. There must be three or more
persons

3. They must meet of their own, will
is without authority, to do the
thing, at the time they met must
suppose the rest should have
been intended

6 Stat 43, 1801, 95

2 Stat 294, 1807, 4

It must be to execute some evil
purpose private nature, and
the thing must be secret, not
merely others see, then would only
be a riot or an unlawful assem-
bly — 1 Stat, 96, 1801, 295

It must be in a violent manner
so as to excite fear and terror

6 Stat 141, 3 Burr 1263

1 Stat 91, 1 Vent 369, 380,

The act may be either lawful
or unlawful

for an answer, which is not
possible to give, when it has been
seen imperfect, taken from mass
This is a riot at C. L., over
the war on the same, the 1st the
riot at is read & they don't dis. Here
the first is greater, the second at

Protest

The incident of the latter one
the incidents of a Protest, only
this is an attempt and not an
execution, there is in Eng diff
between in the house's must
a little, any beginning or going
is an attempt

For there must be three persons
and as state and prove, but only
one is known and may be in
and — the when three
known or insects, 8000 is

is found innocent, the no
riot, for there can not be
rioters there

Memorandum for a Committee
of the ^{to} do any thing that is a
riot or riot is unlawful & full
1 Hawk 297

This is an assembly to consult
to break the peace, ^{or} to do what
in law forbids
statute 92, 10th 1-96
statute 369, 384, 5-20-91.

Public officers in all
the officers without a warrant
may and must command the
peace committees, but private
persons can command the com-
mittees, the they may if they can
suppress the riot &

Page 121

The Passio's to mortgage line 8
is express overment

Apray

This is a common battery in Paul.
line 100, this is out of date & battery
is given below, p. 10

The Can can be seen a Pt, on each
a - too, but it means one, or

Battery

100

I now consider it as a crime, this
was at Ch a crime to take any interest
but after any interest is made the
taken will not be secured by Pt,
if the contract ^{is} ~~was~~ not secured
it is void - and is no crime & Pt
money may be held.

But where the money is the
interest is taken, then it is

a crime, in if he received too
much (ex nomine) as interest

If the contract was good at
the time the ^{owed} ^{owed} too
much interest ^{afterwards} then made it
a crime, but the contract
is good and may be used for this
if not facts don't indicate it. ^{it is} ^{not} ^{an}
There is contracts only the value
of the sum loaned to the public

If
as much may be received in
the agreement, this is not an
it ^{same} ^{after} ^{the} ^{contract} ^{is}
written, for the contract
may be made out by parole
be common who practices
every, may be bound over
the ^{for} ^{good} ^{balance} ⁱⁿ

Appendix to the Poetical

There are no more poems in this volume
except of the kind of the above and
not the old stuff

Gloucester, 1681 is my book
in the field of system, or
provision of food, - the book is
the result of the author's
experience, showing at length
the nature & utility of it - The
private opinion of the author is not
meant

The author is not in any way
opposed to the new system of
management

By the way, I am sure of
something, or rather, or worse
than the author is a poet, Prose
writing, or not writing with the apt
one not writing no crime, some

interest is taken, then this

not to charge an assault, it is no
sumner - The great question
is not - This chap. is an other
disturbance - or morally corrupt

Libel is an offence

Lord Stowell is of opinion, but
a libel is more extensive
since such an offence
only can be prosecuted, prosecuting
prosecution - The Principle
is it has a tendency to disturb
the public peace, to excite
83 - I am now speaking of pri-
vate libel - A man's reputation
to him is always libel, so too
many things on paper are libel
that would not be slander,
slander is defined, any thing
is libel, that injures our char-
acter 2 Nils 403.

at Ch. II. truth may be true
in evidence at all times in
civil suit, but Ch. says not
as to public suit, for truth
or not truth, the case is equi-
ally exposed. This has been com-
plained of but P. Peck, there is
no reason of course to claim

Libel, of government or public
well then is wrong as the reason
for no more is excited as
one man is privately charged
hence the above principle does
apply here, as P. Peck says
that in the present situation
the truth may be given in ev-
idence, this is contrary to Ch.
except by Statute, Facts ac-
cording if true may be stated
and not in any way, Ch. says
the admission of truth with cor-
rupt motives (not facts true, & never in fact
true) is not true.

is certainly a libel, it brings
the government ^{that is the select} into disre-
pute. Facts only may be stated
the also the liberty of the press
is down with - The editor
is down ever only in a per-
son of the Cham -

Books, to instruct men have
a frank in comp to
except practices, are libel
this case must be re-
libel, the is not again +
be the character, on the ad-
mission in - But car-
ing about this writing
is publishing it, no re-
try or reading it about
to show it, this is a libel
this necessity every where
is publishing, Cham
must determine, whether
memorandum is being

and finally is publishing

particular is ^{it} dealing with
himself & others standing up at the
people - "The thing must
be done as one should be com-
pletely to show this in order.
As to writing, or other, one
often is sufficient to this
don't include advice, it
must be religious dispro-
portioned to not to people
the end. In any this is a
high crime, it is disproportioned
as a crime of false, the con-
clusion it don't show any
wonder of iniquity, he may be
kind & must give merit, for
good behavior, it is con-
gratulatory & royal - Barne etc

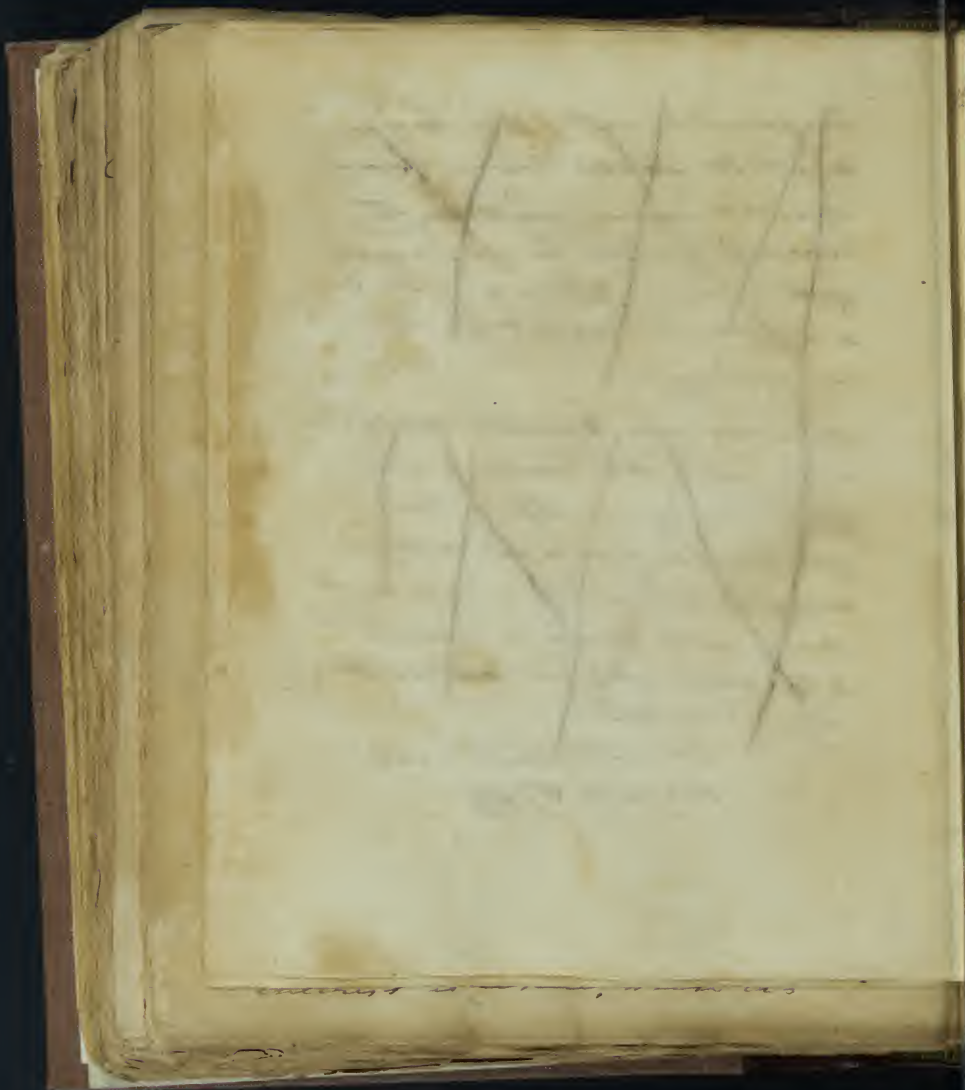
interest is in the, in the

~~incredible crying & distress
at the same time, her
mouth in some violent, the
rain fell, she took her breath
after a while, but was not to
a wife or a mother if there
were enough~~

~~Her mother was brought to her
self in a horrible crying, the
blood & crying the little
if there has been some and
two in his will to turn out
his wife & father and
of the house, at least he must
be in the little~~

Pat. int. 266, str. 443
L. 1514, 6th 199

in the morning, the day after



don't bring any action
they shall abate

11th Dec 1844

Champerley

~~Champerley~~

This is my last suit
as it is to say or buy
ing any thing that could be
got if possible, only by a contract
origin, and then a contract
not a principal — This
general note may now be
brought, but now if the
right is bought on purchase
now to my and pleasure with
a suit, in Champerley, the
distinction of intention
did not occur yet, the law
now if the note on contract
is negotiable

11th Dec 1844

Buy is up, pretend to the
in Champerley, buying

tell to Canada where properly
a third person claiming by his
own title, this is an offence
(I will) to sell or to give the
woman's money under a penalty
you may see. The title to the money
in case of a contract then the title is
in the woman, the in Canada
a statute and it accumulates
to her in her moment by H. the land
is forfeited, at Ch. and any time
of imprisonment, in both
the contract was void.
Plaw Case 88, 1840 & 41.

We have been a serious question
in Carr, of Hume & Mortzen
you don't come sudden this H.
for the a legal title or for a legal
purpose in mortgagee.

Chester of this don't
mean in Hume & Mortzen

as by lying - but it means
when measures are evident
practices arts & secrets as
going also at the country in
a false name to get credit,
this is surely swindling,
how he makes use of false
tokens to get property, & use
of false measures & weight to
get property

stand 358, 400 Ch. 189.

Prohibition in the
is a discretion with the
6+

Bigamy is an offence
at Ch. 18. punished by prison & by
an odious watch, in his case
if it is an offence actually
is punished as an offence in
England as committed,
The case of St. Martin's & adultery
only with a married wife

man, is the man in the ques-
tion, etc. in any case, in a
now, The acceller is by St in
Cor. white, black & latter
wearing

Faculty, at CL is the outcom
milit by act of St. marri
nations, no matter on whom
by St. in ^{Cor} must be on a mar
ried woman

Forcible entry & Detention
This is an old Statute, and makes
it an offence, at CL a man
might fight into his property
but the St. forbids all violence
he may get in by entering, but
not by force as the Statute
reads — So the St. forbids any
forcible detention if there is no
title, none then may often

be possible early and certain
 as to the season. There
 must be some occasion
 on the road which is the same
 thing, to raise fear. As to
 me, in, to the peace, & the
 better. The public can't grasp
 much, I may, if there are
 enough of them to a riot or
 about —

No man can be so far from
 self, or so far from early — & the
 he has, the truth if he is far from
 entered still has just this
 now, can't tell him again
 in his trap of opinion & try it
 at last.

Coke Let 200, Aug
 14, 1814, 6 p.m.

As to entrapment in theft is
a crime as well as, a civil of-
fence, to be b.t. 111

As to one who at a night a-
rison is made. As the prison
would be the th', it is now
allowed to stand generally
as malicious prosecution
is a criminal offence. Bri-
bery is an offence

Murder

to be b.t. 111

1st Felonically homicide, only
accident when there is no blame
to be a medical officer

2nd Execrable, this don't mean
no guilt, but that it don't ac-
count to murder or man-
slaughter or self defence.

3. Nonstaughter, true homicide
1st where there was an intention in
the sudden, 2^d it is consequent
upon unlawful business or
lawful with great negligence
3^d Murder is taking with a
volitional intention

1st Justifiable homicide
Here the thing is necessary
must be lawful & proper
care must be taken - a Non-
slaughter is voluntary &
involuntary

If in an instant a hand
be raised to kill, or a blow
be given, or a weapon
drawn, or a threat
made, this is murder,
if done with a purpose to kill.

He makes a man, and it
may be no more than justly
dealt. punished.
murderer —

But if the Officer, who, from the
warrant, is this murder, the
man be no murder a murder
now then of course is it murder
if he it may or may not be
according to circumstances
often the Prisoner refuses to
the officer this unvarnished
specimen of it, in such cases it
is only well regard of the law
if it be known it had no just
action, it is guilty of murder
if the man is hung, and they must
be hung

When officer is resisted, it is the
law, if necessary, ^{as a consequence} officer can be taken
to complete the execution, if this
not enough, it is murder or a
manslaughter, in the circum-
stances would be murder.

If man pursued by Officer, etc. etc. to
get away, the Officer may kill
him ^{as a consequence} if he cannot catch him without
he dies in the struggle, the
Officer must not try to kill
him, If the Officer has not
yet shot him, & he is running
off the Officer may not shoot him
for he knows ^{he will} kill him.
But if the officer does shoot & kill
believing he ought to, this only
manslaughter.

The Officer has no right to kill
him or murder to keep.

nor has he a right purpose of the
bullet him to stop him when run-
ning - but if he either come
the Officer he does an act only
to hunt him & get him alive, &
death accrues, the justifiable
if more, caught to shoot him
to hunt him on to get him, for
the Officer is not to administer
the law - It matters not
what is the crime or offense or
the escape - The Officer may be
forced enough to catch him
alive to just this & this is the es-
sent of the Officer's power

Planned as defended

This is sensible - but may
sometimes be taken in im-
ately, sometimes there must
be retreat at first.

be my bill at fer-t, in case
robbery, burglary, rape arson &

At the corner where there is a street
retreat fer-t, on them on the murder
murder, and in a sudden spray
it is not retreat to murder, but
your own life, but only while it's
safe - it matters not where he
goes this a large - & this retreat
is not fer-t in order the
corner of an alley, where there is
murder murder murder
revenge

For an attempt is made to take
life re do murder murder in case
of private murder, then
must be a retreat as far as
safe will permit

Now murder is murder
when the murder murder murder
and murder murder murder &

without come here is to rise in
both cases — Voluntary man-
slight is a sudden passion &
where the act does not purpose
murder or ~~murder~~ not madmen
death, yet nearly done

This sudden passion
will make it wrong long &
only if revenge is exercised im-
mediately else its unreason

It would not have this passion
is wild, if the act is done as soon
dictate — it must have been ex-
cited some reasonable cause
else there is always the malice
animus

No sword or dagger is here, but
out of contempt will give rise
an intention of perpetrating
as much it shows long time,
than the things in themselves

in a common named by any other
act, in our view it is intended
to build the offender.

That the in deed is not often done
the males are men, but from
them to meet the same as a man is
guided society - Henry at 6 h is not an murder, but
Police may do not require that
the per son of the man is
caught really) should be run
as murder at 6 h -

The gun on if an murder, may
be in man laugh, the will
in can by it, are man is the two
species of man laugh different
the at 6 h the are man is the
same, by an it voluntary man
laughter is man is with whitening
brandy is, but in man is

man, as at Ch. Well in Court
the spec is murder & the Jury
as they are do bring in manslaughter
or, is it voluntary or involuntary
& how by our laws shall it be decided
or if voluntary or Ch is involuntary
manslaughter, the Jury to
as voluntary, viz. & Ch the Jury
says the Jury should bring in
what he indges manslaughter
voluntary
or Ch in End Case, if Ch is
born alive & c.

It is murder or murder, because
the law says, manslaughter
or if Ch is in End Case
in discharging this duty, will
reduce murder to manslaughter
or, the Office & his deputies pro
them and all others, are at some

The court will see for itself
whether, which shall shall
hold to the offence — But
the criminal must know
that the Officer is one, unless
he be of long & well known
apprehension —

Is not so much if the Officer
has not a good warrant, is
one that appears to be a good
one, for if it does appear, it
shall not judge, it appears
well — To make it murder
the Officer must not know of the
illegal warrant, the criminal
may

Treason in the States

comparing the Threats made to,
contingencies & is given some
ground to us.

1st Living under a the government &

this is any attempt to raise force
against the Present government
or Constitution of the U.S.

Would this resistance to a State
government constitute Treason,
or Obstruction or Treason, & is
directly is an attack on the Gen
government, This was so called
but before the Gen States were united
to in ^{their} present form.

The difference of Treason & Treason, is a private
vs public object, Gen George Gordon,
was a band of Treasoners.

5
The object of the treasons must
be to overthrow the government or to
oppose the law or the government
A conspiracy for treason is
itself treason. The act is a crime
deserving

2 The second kind of treason is
all tending to the ruin of the
government, whether at home
or abroad, if they ever are the gov-
ernment. This adhering is
to be proved only by some
act of apostasy, also it is only a con-
spiracy, or sending money,
arms, provisions. This aiding
must be to help them on in
their war, more charity is not
that aiding.

It is not treason if one is forced
to join the enemy by the enemy

In all these cases of treason we are only to enquire, What is the object, is it voluntarily an injury to the government

No conspiracy or words under composition by overt acts is treason, Lying, conservatism was wrong, Writing if its not published is not treason publishing is an overt act

1 Hale 118, 1 How 38

An overt act of treason may be proved by an witness unless this is the only act, for the Eng Law requires two witnesses to contribute treason. The witness must testify in person.

An man as co-writer of a book
of the peace in my view, by
proper magistrates, he may be
bound for his good behaviour always
& other they must demand it
if it was demanded by the Statute
to if one man threatens another
the there has got been no crime
yet, he may be bound over for
good behaviour

For any crime (peace or not), bound
in to of superior jurisdiction
this it may demand bonds, but
a King is not bound not to supply
those bonds of the peace, or in
serious threatening - this goes down
by writs within his jurisdiction -
The applicant must make oath
& then must appear to be reason
to fear in the opinion of the

The King's letter besides answer to
the next County Ct, then the Ct
relieve or not a stay, then
there is no an-
other improve conduct in the
thing, for fits the Court - a case
about one & another - might
wishes & 2 -

This Court records only the future
and requires means to all cities
2000

1842 12 20, or 1843 12 03,

~~Article~~ ~~of~~ ~~the~~ ~~Constitution~~

The second is, that the right
for the ~~people~~ ~~to~~ ~~elect~~ ~~the~~ ~~electors~~ ~~of~~ ~~the~~ ~~electors~~ ~~of~~ ~~the~~ ~~electors~~
remains there during the re-
ign of the ~~electors~~ ~~of~~ ~~the~~ ~~electors~~ ~~of~~ ~~the~~ ~~electors~~
is contempt, and before any ~~electors~~ ~~of~~ ~~the~~ ~~electors~~ ~~of~~ ~~the~~ ~~electors~~
that if one is imprisoned for con-
tempt in not doing any thing
he continues in prison till
he does the thing, this last
sort of contempt may be done
by any one who is bound by law
to do any thing and must
do it

So any abuse of a process of ~~electors~~ ~~of~~ ~~the~~ ~~electors~~ ~~of~~ ~~the~~ ~~electors~~
subjects to imprisonment for
contempt, so any public or pri
vate person that improperly
uses any process, is guilty of contempt
empt, & may be imprisoned

For a certain length of time

You just won't come this obstructs
the contempt

Arbitrators suspicion is a trap
and must by it can be com-
piled with

Attorneys who do any thing im-
proper in it are liable for con-
tempt, & to have seen it bear

1 Hawk 142, 1 Salt 84

127p 185, 244, 140 Oct

73

When a man is bailed

^{or}
This is most state regulated
274

How man gives bail for another, the
one that gave it is his keeper and

may if he want do what he sees fit
imprison him, or make him
get new bail

At C. & L. bail ~~only~~ consent
one may be taken by J^y of Peace
for every thirty but homicide

Wales Pg 6 97, & Levin
209,

There is in no case bail after
judgment

⁹⁹ The Supreme Ct. of the Land
may now bail in all cases
bail even if the murderer

Wales 98, Hatch 104
5th Ed 323,

But now in Ct. of Peace can't
bail treason or arson or where
crime ~~under~~ is conspired or one pleads guilty
for guilt then is certain
to ^{the} con. & bail prison breakers

on a notorious thief is as none
so when the thing stolen is
taken upon the thief

Chap 101

I Bail a murder before
they bring him up by Habeas
Corpus

The principle of Bail is this
perhaps he is ^{not} guilty

But Bail there cases there excep
tionable. The Bail is not setting

down cont 1 Bail 103, King 2

at the time get Bail, for the pris
on more dangerous - 10 Bultra 85
see Chap 455

The SCT exercise the discretion
about Bailing

an indictment is one found
on the finding of grand jury,
if finding of the jury, then there
ought to be a trial, this sufficient

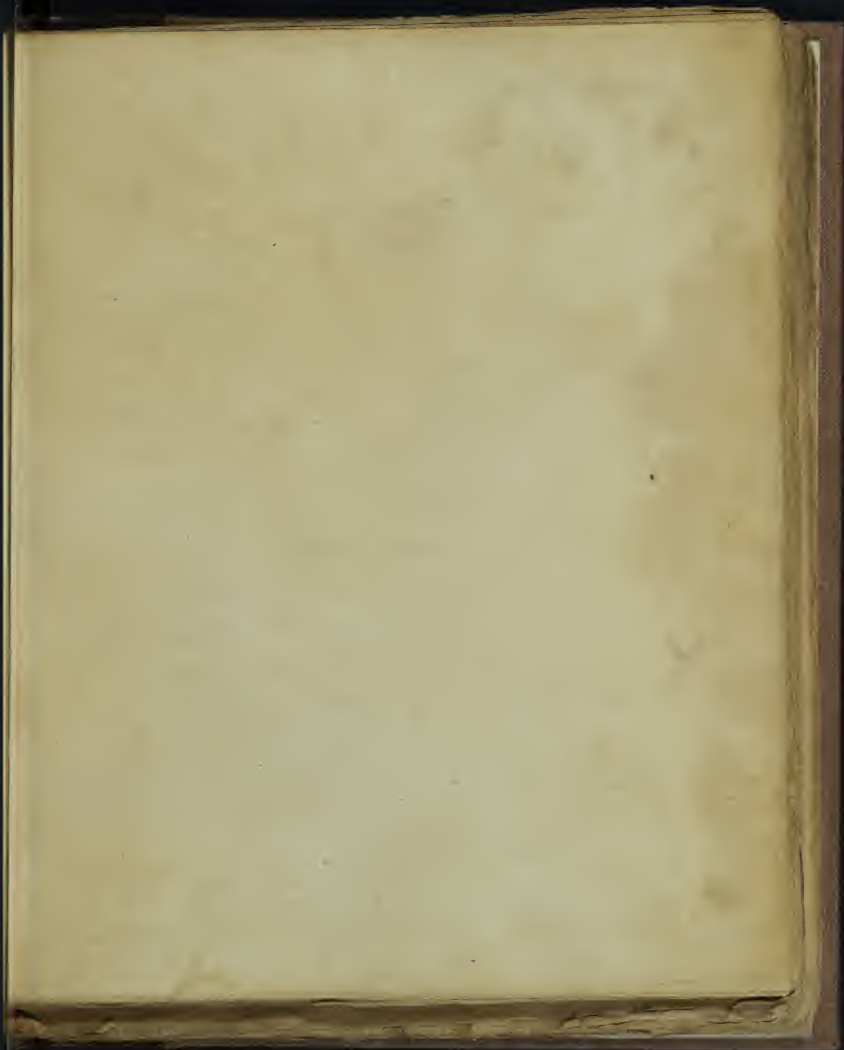
Collet 9, 1 Sid 515,

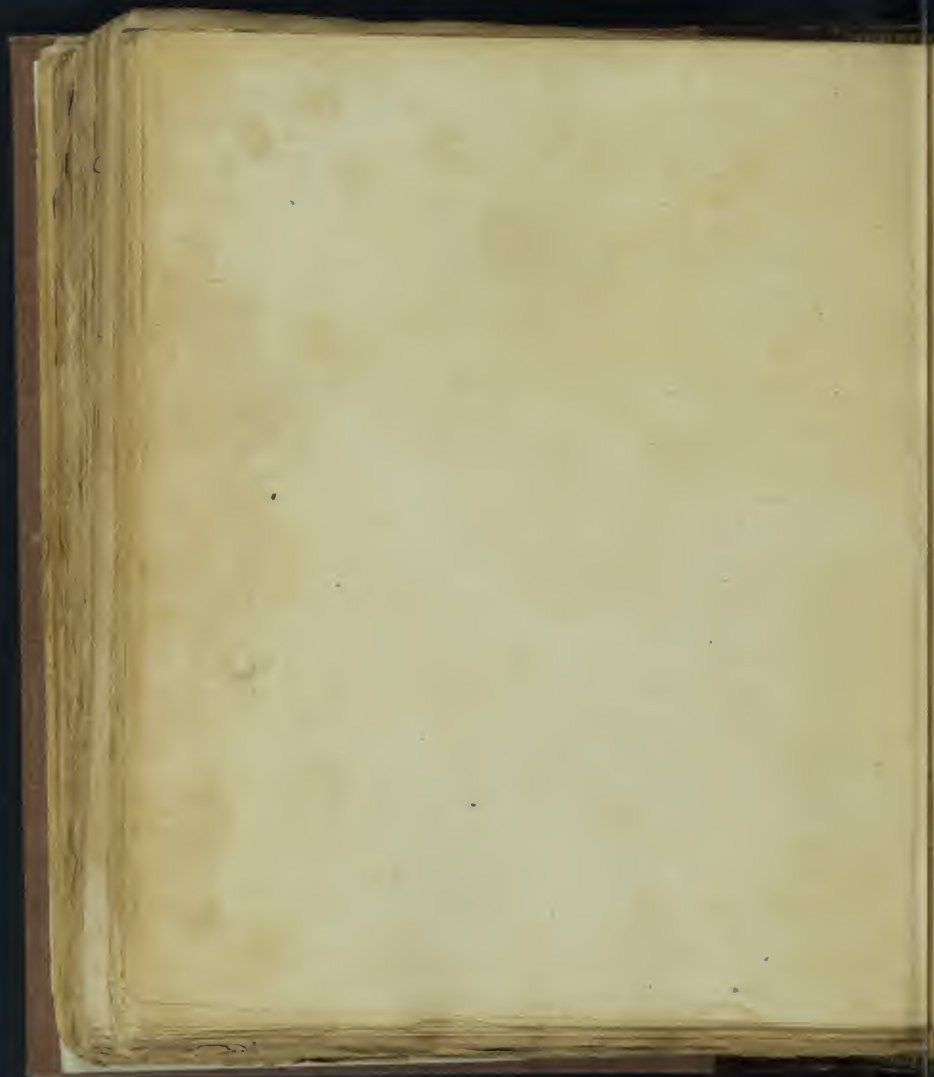
at CL there must be an in-
dictment, in a G. Jury in all
cases of treason felony or
~~the~~ where the thing is found
on him - in other cases there
may be a G. Jury, but it is not
necessary - off. Felony & Burg
is in our law, only capital
punishments

~~off.~~ It only makes the offence
a crime of treason or is found
out, a G. Jury are not necessary
Palm 388 Shaw 399, 1 Bell 460
1 St. 579, 1 Kent 63,

Therefore also in submission
is most consistent, in all
except treason & sloth.

The conscience is always
in constant care and in no other





On the view of the 1st & 2nd

After a suit is commenced & the
nature of a suit stated in the
declaration with jurisdiction
the step on the part of the Def
is in some cases to accept a
Default

This happens when a Def in a
suit having no defense to make
to the suit, is called three times
in Court and does not answer, In
such cases you get your of course for
the Def for something. The
quantity of damages however
is not fixed immediately on the
default. It is an motion to
be heard before dam-
ages are assessed. If the suit is
brought for a sum certain
on note or bond, the sum
an interest will be given
if Def does not appear to speak

of the damages, i.e. if the money
was on interest. If there are
true amounts on the note, they
will be noticed ⁱⁿ the fact.
If payment have been made
and receipt given they must
appear, to be allowed. In Eng,
and many other places, dam-
ages are to be ascertained by
a jury of inquirers with the
sheriff at their head, but in
Conn the clerk of the Ct is to
set the interest for the sum
due and if ever the execution

It may be the damages are
presumptive as far beneath
of contract to build a house.
In those cases if I do not appear
to be insured, i.e. damages &
the insurance I do not pay

with rule to judge by, and
will be recorded for the sum
demanded in due course of
action will for such case, But
if the D^t does a year to be held
in Eng a jury are appointed to
open the damages, but in case
the Ct is the jury for this year
now and they open, the clearly
this is no C. L. principle

There is one set of cases where
the sum is apparently cer-
tain, the Ct may open the
damages, i.e. where there is
a bond with a penalty, in
this country & Eng the Ct chancery
down the penalty to the
proper damages, this author-
ity is given in Eng & here by Ct

If D^t appears and answers
to the suit, his first step is

quarto as soon as the writ comes
whether it is alias treble, if the
Judge is defective he puts in
his plea of abatement.

In our 6th Ct. Quarto is called
the first day in 1 term, and
the 8th takes the writ and sees
if the defective that evening,
and if so he makes out the
plea of abatement, and when
he comes into 6th he lays it in.

This is a dilatory plea, and
gives notice to the jurisdiction
of the Ct. the person of the Plf
or Def, either as to name,
place of abode &c., or to the
writ itself. This plea is proper
whenever the 6th writes to ap-
pear any reason why the Plf
should not prosecute in this
particular term.

If the plea is sufficient the
fact is that the plea abates,
If insufficient then the plea
is quod respondet our side &
then you have no pleading
in abatement to it. -

Every cause of abatement is
needed in writing indeed
by pleading it is meant in
writing -

If any thing which can be
taken advantage of by plea of
abatement, and it is not the
case in this case, you are
considered as waiving it, &
are ever cut off after taking
advantage of it in any stage
of the proceedings, except
where it would be error in
the Court to proceed, then it
may be taken advantage of

in any stage

It is a rule as soon as you plead
in abatement, you must if
possibly state such facts as
will enable the Plt to correct
his writ. But the Df need
be at no expense or trouble to
help the Plt to get a better
writ

If you find the writ good
you must examine the decla-
ration, and if the facts are
not so mentioned as to sus-
tain the action you will
demur to the declaration, or
if the Plt for slander states in
his oath that the Df called him
liar, there are certain contracts
on which the Plt can recover with-
out notice, and the notice
is not given and covered

There is no liability, and your
may disagree,

There are two kinds of Desmurrer,
viz, General and Special. The
first does not contain the
ground or cause of Desmurrer
but, the latter does. Gen Desmurrer
are for such causative defects &
do not not recur, General ones,
and when you object because
of informality, you must put
your finger on the spot which
is informal by a special de-
smurrer. It says the statement
is not done in a lawyer like
manner. The law says in
some cases notice must be
given in writing, but O'Leary
don't state times given in writ-
ing, here you must use a
special desmurrer, Gen Desm

from its nature most immu-
tably, peculiar & necessary if
proven sufficient, When your
claim is a due that a judge
has been rendered & execution
issued thereon, you must state
the execution was signed by
at B clerk of the Ct in order to
show it was legally signed, and
if this is omitted you may deem^r
suppose one pleads tender,
he must state that he has done
it legally, and if omitted it may
be deemed^r

Devotion of mother may be reach
to gen devot, is it a subject of
social devot & no, for its no for
that but subservient aspect
In all cases when there is ~~some~~

me a ground of action in a given debt.
must be used, as when it is
an important allegation left
out, But where there is a ground
of action and the facts stated
are so imperfectly, that a
dem only will avail, The just
in a debt is a judgment in chief;
for if the debt is insufficient
then as the facts are confessed
judgment is entered, But if the
sum is sufficient then the whole
writ falls to the ground &
goes out of Court, When the sum
is sufficient the Pleader enters
judgment for the whole
amount unless liquidated
by the jury in Eng. or the Ct in
Conn, The Ct will always re-
fer a hearing in damages if
desired, and then render judgment

for the amount found due

If on special demer the judge
may not be in chief

If the Def can state the writ
nor demand to the debt, and now
if the Def intends to deny the facts
of the debt he must join in
a general issue, This issue the Jury
determines, some times the gen-
eral issue is used to deny only one
part, and in such case the other
facts are admitted. The plea
denies the fact simply, as if you
want to plead that notice has
not been given when the Def
has sued on a bill of Exchange
protestless and alleges that
notice has been given, you
may plead that the Def did not
give notice. This is not a

proper plea, but a special
traverse (except in its form) to
the deed, as a general plea is a
general traverse to the deed, to
this plea the P^t may reply
that notice was given, and then
they join for the jury.

But if D^t admits the facts, he
may then in bar plead some
thing that will annul their
operation as award, inquiry
payments, tender, award &
satisfaction, P^t of limitation
etc. If this plea is in bar
of the jury in bar is given
under general plea

We have now arrived to where
it is the P^t's turn to plead,
Perhaps the D^t's plea in bar is
insufficient in law, then P^t
will answer, as if the plea

was that the money was always
ready, if the Olt had only called
for it, this in law is insufficient
to leave the sale, for to be a car
it must have been tendered, but
suppose the matters are suffi-
cient, if true, then the Olt for-
going their writ by a waiver
by operating the Olt right
recovers the 1st place without
standing "without that &c."

But suppose the 1st place is
sufficient & true & the Olt
has some new matter to plead
in answer, as when is born,
is the place in law, and it is true
that the 1st was a minor, but
by a new promise since he is legal
age, the Olt will reply over
But our minor the 1st says he
then he did make this new

4
promise but the D has heard
it, this is a rejoinder, this is
always the D's answer to the
Plt's replication and this may
either be a denial or traverse
or the D may still proceed to
urge negatives against the
replication, A rebuttal and
sur-rebuttal will sometimes
follow, but very seldom, there
is 9 or one case in 1000 of
a rebuttal

There is even perfect equality
in this case you are permitted
to give in evidence under the
open question things which do not
deny the deed. In England under
non assumpsit you may
give in evidence whatever
shows there is no right of ac-
tion at the time, This goes
further than in Com, for here

The Pt says if the Pt has given
a discharge and then the Pt has ex-
posed it to usury and infamy, it
must be pleaded and can't be given
under Gen's pen, but in other cir-
cumstances beside a person it can go
greater lengths, as to giving mat-
ters in evidence under the Gen's pen
than they do in Eng.

To plead special is always
favorable to the Gen's pen
as it reserves matters of law
for the Ct and does not submit
them to the jury, Besides more
fair play is given to the Pt
for he will then be better pre-
pared, but in case of giving
in evidence under the Gen's pen
he is frequently come upon
by surprise,

The Pt is not bound to close

all the allocation of place
in bar, but may traverse
on material fact and this
admits all the rest.

A P'ty may "introduce" his
own deed, as if D's dis-
covers P'ty's deed is bad, but
he does not want to remove it,
let it stay, let it plead non
place in bar & P'ty demurs
to it. Place, this deed goes
clear back through the whole
and reaches the deed, thus
destroying it if it is bad.

Suppose a D's should under-
take to plead this, that true
it is he gave and executed the
note on which he lent it was
corruptly agreed that more
than legal interest should be
given viz 5%, the P'ty traverses

the point that has much been
given and it is very so has much
was given, here it might have
been that it was an agreement
of hazard and consequently not
usurious - This is an immaterial
alipen for it does not decide
the question and may be made
the subject of a motion in ar-
rest on which a reprieve
will be granted

The question has been asked &
verdict given & it can be go
any further? It may be after
all the deal was good for nothing
but it has escaped the
attorney, not till verdict
was rendered, will an arrest
be allowed him. It remains a
doubt for our substantially

7- defective, and when it will be
error in the order, find
a defect in an indictment, or an alle-
gation is omitted, or motion
to the Ct. to be arrested ~~there~~
~~against~~ ^{from} — but where the defect
is formal and could have
been the proper subject of a spe-
cial ~~arrest~~ demand, there in
ordinary cases a motion in
arrest will not be ~~liable~~ al-
lowed, the reason is, this verdict
has cured all informalities
the jury are presumed to have
found these things proper
for special demand, but the
jury can be presumed to have
found a material allega-
tion, this must appear on
record. This motion in ar-
rest may be made by the Def^y

too when the plea in bar is in
the same situation as a plea
in abatement in order to enable
the Jt to answer it

When a party pleads himself
acquitted by a decision he may
bring a writ of error to a Chief
Jt. This writ stays the Jt until
below until it is decided and
if it is affirmed the proceedings
are continued or if no writ
had been taken out

But if after all this the party
has found new testimony,
which he thinks would have
served ^{his} case, he brings a pe-
tition for new trial

Proving over is when the suit
is brought on some instrument
and the Jt has not ruled it
at large as dec, then the Jt

about as much as to it as it stands
for the P'ty in his debt has
given such a construction as
best pleased him, and perhaps
an interest one, now yet may
now over get and rule it & then
is a part of P'ty debt & then
I'll may demand

Formerly proving a debt was to
have it read, but now the only
proving for a copy, which the
P'ty must make out & deliver
himself or permit the I'll to make
out a copy,

The P'ty may also take a copy
the I'll plead any instrument
in bar, and if P'ty thinks the
I'll will not support the action
he may demand to it. Whenever
a construction is given to an
instrument or the opposite
party thinks necessary, he may
now, after & demand

when you are content with, the
Jury deal and all the proofs in support
part of it, but think that the evi-
dence is insufficient in law to
entitle him to recover, here you
may demur to the evidence

The Def may also demur to the evi-
dence, or if Def pleads in any, but
his evidence don't support it

The Def will not come in as a witness
in answer to evidence, but
leave it optional with the jury,
where the evidence is written
there is no need of the other party
agreeing to your statement of
it as there is in case of oral tes-
timony,

It is common for lawyers to file
bills of exceptions, and even in the
case of testimony, as, the Def
offers a witness, to prove his deal

The Jt decides to his admission &
the Ct decides he cannot testify,
then the Ct in order to get the
question before a higher Ct
sits his bill of exceptions stating
his evidence. & the Ct
on the whole is not, and if his
correct they sign it & this lays
the ground for a writ of error
These bills are usually drawn
by the attorneys and signed by
the Ct, & the Jt may file a
bill when he thinks a witness
should not have been
at bill may be filed to any opinion
of the Ct

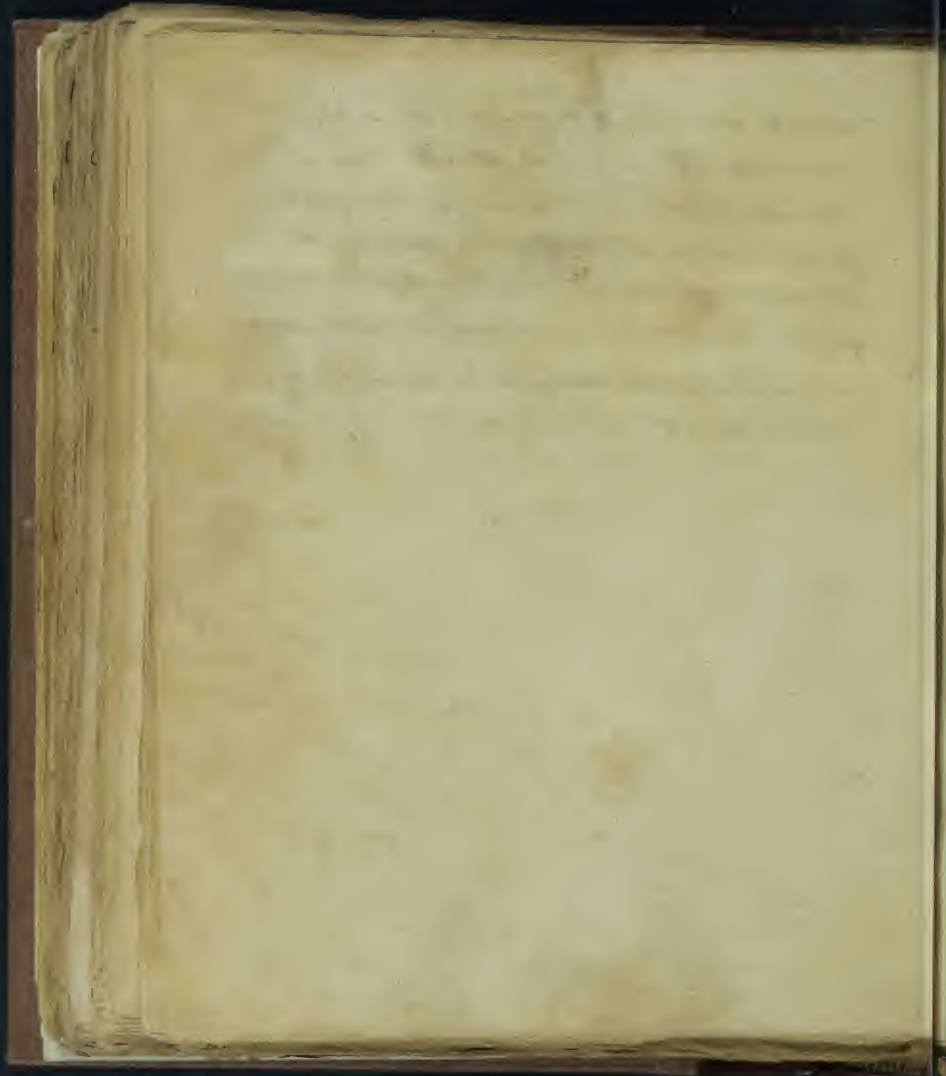
As soon as the jury bring in a
verdict and the Ct are of opinion
that the question of law before
the jury is not correctly decided
and send out the jury and they

Living is a constant incident, then
a bill may be filed

For Com if the Ct decide the writ
will oblige the Def to all have
liberty to remove the subject on po-
ing the Def costs up to that time
For in removal cases, can in
com authorizing a writ when
the objection he has snipped his
idea, which would have some
basis in his first case, to allow it
By this the ~~Def~~ ^{Def} might eternally
use the ~~Def~~ ^{Def}, but the Ct are ac-
tually if the Ct are in sufficient
to give it a new party removes
for what he has suffered by the
delay occasioned by it others al-
tering

But we have another story by which
a party may avoid any mistake
subject or information, etc., in its court

and on pleading, or other
parts of the record but here
the Ct will at their discretion
give costs, and by the same Ct
in case of amendment in the
deb, the Ct must grant it but
a reasonable time to make an
answer to it



Of Pleading

Pleading, are defined, the mutual alterca-
tions between the pties in a suit put in
to legal form, and set down in writing

2 B. & 293, 4 B. & 1160 132

All pleading now in this country viz Eng
and W. is in writing, formerly in Eng, they
were delivered verba re & by the Prothonotary
reduced to writing 3 B. Com 273. - 10 Co 132

All pleading, now are to be in the Eng tongue
they were once in England in Norman French
& in Latin Law Pleading, 29, 7 B. Com 317, 324

In truth Pleading, are the ^{only} facts & grounds
of the parties suit

4 Bar 1, 57 Rep 154, Tang 278

Lord Mansfield says the substantial rules
of pleading are founded in good sense

and correct logic

Law Reading 2-3-1 Bur 319

The general object of Plea is the full & complete
exhibition of the parties suit & a scholar
note about is to bring the pleadings to a
single point 1 Bur 319

Reading is a syllogistic process. Every new
plea alleges new matter and every good
deduction contains a good syllogism
as I see in two quare clauses forget

The Def says against one who has entered
his land. The law has given me a right
to recover damages. If he forcibly entered
therefore I have a right to recover some
part of the Def 3 B 396

There the Def may deny either of these
propositions. The first by denial
the second by denying fact. The third
by alleging new matter

The first stage of the plea in Eng is

The writ

This is a mandatory letter directed to the Sheriff, the object of it being to compel the Defendant to appear in Ct. The writ is regularly commenced by issuing the writ, but the suit in the Ct is not commenced till a bill is filed, for the bill is the original writ there 7 Thp 4, 2 B & 273, Cowp 454, - 1 Burr 41, 6 Ellis 677, 6 J 11, 2 Hawk 275, 6 Co 28, 3 Burr 1323

In Con the writ & declaration are together if before a Court. The writ is however the foundation of the suit, thus the writ is not the first stage of the suit any more than the declaration, But the suit is not commenced to all purposes till service is made. It is decided by the Court that tender before service is good without cost of writ
1 Post 68

But for most purposes it is commenced at issuing the writ. In England in Con it is served

In Con the writ is not issued till the bill is filed. The actual service of the writ is in every paper to the costs

Declaration

Of course the cause of action must exist in full at the date of the writ, if a writ on a bond be brought. It appears the writ was returned on the cause of action accrued, Plt is non vult.

The first of Declaration is the extension of the term of the declaration or count. These words are synonymous if there is but one count, but if more than one shall it is made they are not synonymous.

Declaration & Pleas

It states the ground of recovery, Writ is not part of the pleading for it contains no allegation or averment, nor does it proceed from any party.

Law 75, Tit 17, Plow 84.

The Count is an amplification of the writ, writ names the cause of action generally, but Count states particulars.

species of Pleas
Saying Time Place Person 38-

303 B 293, 403 B 8

Restriction is often used in Eng & Amer
is only to give a Ct jurisdiction of civil
that is that only of criminal cases

Pleadings in the more extensive
sense mean only those allegations that
make the Count, the debt is included
under Pleadings when used in the
extensive sense, the first thing after the
Count is the 1st Plea to the debt

303 B 294-403 B 1-5

The 1st Pleas are two fold 1 Deflatory
2 to the action

Deflatory pleas are those that go to deny
the action, such as relate to some collateral
circumstance when the great point
is not supposed to come up - 303 B 301
hence if these pleas are well founded
the action is at present destroyed

Species of Pleas
Dilatory pleas of 3 kinds

1 Plea to the jurisdiction of the Ct or Disability
of Ct & in abatement & B Com 301
Common & Baron make other immaterial
subdivisions, Pleas in abatement
are distinct from Plea to the jurisdiction a Ct
of pleading in abatement is differ-
ent from the other two pleas & so is the
conclusion so also is the object & effect
of abatement different. They are of the
nature of dilatory pleas, & Bar 31

2 Plea to the action

These are answers to the merits of the
case, which go to disprove or evade
the gist of the action, this may be effected
in various ways & B Com 303 law 37, 38

190, 140

Pleas to the action are two fold

- 1 General issue & special plea in bar,
- 2 B Com 305

Issues of Pleas

But if man deny Plea, rights to recover
without pleading - viz by demurrer -

This is some times called a plea, but is none
but is an excuse for not pleading, It
has not the form of a plea, but it is said
It is not bound to make answer there
- too, but a plea is always an answer to
declaration, but this says by your own
showing you ought not to recover

4 Bar 129, 130, 1 Tmt 42 & 112

Demurrer has sometimes been classed
with pleas to the action, but this is
incorrect, for it may be answer to any
other part of the pleading, as well as
to the declaration

Then for of gen division of Plea-
dings, Demurrer will be treated of
by itself

Rules in pleading generally

1 Many material things are necessary

1 That the matter be sufficient, & that the
 & be true according to the form of law,
 A failure in these particulars gives
 ground for abatement

Case 683

2 This purports to state facts & sometimes
 conclusion from fact, but never to state
 conclusion from gen law, This will
 answer in particular law of which the
 not bound to notice, or local
 customs, This is an exception to the gen.

rule Law 46. 5 7 Rep 79, Lang 159.

A conclusion from fact is a conclusion
 from certain facts that if affirmed
 promise in action of in detritatus
 appointed, here is no 4 Rep appointed
 the form is a conclusion of facts
 from this or state in detritatus, so this
 forever too is matter of fact from
 fact

Miscellaneous rules

Another general rule is that every plea
should be direct, not argumentative
or by way of recital. The averment of
every thing positive material, must
be positive, but this rule may be qual-
ified, for if immaterial as when the
thing is matter of inference it need
not be stated positively, and further it
need not, the the thing be material
if it can be distinctly traversed in
denying the it may be denied in evidence.

By being distinct is meant that Ott shall
state in distinct & positive terms, not
the ground from which he wants to infer
but the facts themselves,

He must not say in gault & battery
"Whereas," here no issue could be formed
there is no averment that I said beat
him, the allegation must be positively
stated, 7 Rep. 458, Int 303, Oland 128, Law 171, 2, 4

Miscellaneous
It is held and established that aver-
ment following quia, pro, eo quod, quia
but and the like are sufficiently positive
and direct. 1 Saund 119, note 4. 1 Lev 194
Law 47 69

the the General rule in alleging
traversable facts, time and place
must be alleged. Some time must
always be stated, tho the time stated in
need not always be proved. Place is
sparingly by way of venue in local
actions & in transitory for in Common Law
it could only be held in the County, now
it is waived by fiction. Law 57.5

But how can you sue on a bond made
abroad? for the rule is it must be
in the same county where executed, & the
debt must state taxes executed in Hitch-
in the Parish of St Michael in
Eng. So the matter of Law 57

Winkler's Rules.

It is also necessary some number, quantity, price &c. it need not be precise & set where any mistake would work a variance, thus in action concerning horses, the number must be mentioned, tho if that of one is proved the ~~Plt~~ will recover, The value too must be mentioned immaterial variance does no injury, So in a note if ~~the~~ he promised to pay 100 ~~lb~~ when he states only fifty, the material variance ~~has~~ 29-

Another general rule

Surplusage don't vitiate pleadings The maxim is that surplusage is wholly unnecessary, but repugnant in any ~~plea~~ material point treats any plea 2 East 333, Law 63, C³⁷ 549

1 Trist 303, 4 Car 2, 94, 1 Inst 202 4, 6 Car 42

431
Miscellaneous Rules

before, many in such contradiction, that
one part vitulates the whole, So if indict-
ments, It is said in the books that every thing
must be pleaded according to its legal
operation, and not according to strict fact
So if one joint ten encloses another co-ten-
ant this must be pleaded as a release for
he cannot enclose, both being now united
of the whole, so if grant by ten for life to re-
vener in fee this must be pleaded as
a remainder, for he can not grant

So if one covenants not to sue his debt
or a chose in action
this must be pleaded as release, so the
rule ought to be, may be pleaded as release
& not must be 2 H B 11, for the old rule
viz 4 Bar 100 Int 193, 200 B Can § 99
Dang 642. 17 Wm 445.

What which appears on record need not
be averred, If a defence appears on

11th ~~Metellomachus~~ ~~de~~ ~~le~~
Plf, shewing he need not plead it again
1st Inst 303, 9 Eas 54, 28 E 96, 40 E 11 Co 25 a
2nd Inst 247, 11 Eas 40 11 Eas 65, Law 48

etna necessary circumstances implied
in facts stated need not be alleged spe-
cially, thus in plead pleasment, one need
not plead by liery of cession. Yet there are
many modern cases which seem to imply
that it is not good on demurrer, but there
are not judicial decisions, merely, drawn
without reflection - Law 48, 1st Inst 303.

What is admitted in pleading by both
parties can't be contradicted by either &
may not be even by the jury, in verdict
on the parties can't, for they have admitted
the very point on they must try fact in
issue 2 Mod 11 Bull. nin. 289, 4 Bai 2 -
Law 48,

General rule that each party is obliged
to prove on the points material

D

Any new matter alleged in any stage
of the action after the Deed must con-
clude with verification vis and thus
he is ready to verify, this form is to give
the Defendant opportunity of disavowing, which
may be done 3 ways, 1st by denying, 2nd by
confessing & availing, 3rd by denying
3 B Com 309, Cowh 525, 2 Burr 772, Laws
148, 950 & 8 Aug 50, 1 Saund 109 in note

An estate in fee may be pleaded generally
the party is not bound to show the com-
mencement of his estate, 3 Wils 72.
2 Pray 1353, Law 47.

In every state of the Plea each party
has a right to answer the allegation
of his adversary in either of the three ways
He may deny a part, avow a part &
avow to the residue, this may be
done thro' of all prayers of pleading
till proper issue joined 3 B Com 309

Fig. 2. This sheet
same exceptions, where proving the case
differently would work a variance.
This is required only when the averments
enter into the description of the cause of
action, and this is now restrained to pleas
of record and written contracts.

2 East 497, 2 Br 1164 - 2 East 448. & 9 Reg
is not necessary to prove immaterial
averment such as are foreign to the cause
of action as that of waste while that this
does enter into the description of cause
of action (see 84 Can Bristol & Wright, 2 Br 1104,
1104, 445, 2 East 497, 5 East 31, 33)

If the Declar plea or any other plea
being or either party wants the amendment
or neglects to amend & irregularly
done by pleading over instead of de-
murring, if he neglects to demur
and pleads over he can take advan-
tage of it afterwards. It is a general rule
that a mere formal defect is aided by

the parties pleading over.

4 Br 218 & 6, 11 Br 303, 6 Br 110, 1 Br 119

Page 3 Repley
This principle of this procedure is waiver
8 Co 120, 1 Le 195, 17 M 303, Carth 60 Saul
519-2 Bent 222

If the pleading of either party went
material fact, if the other party avers
this fact, the plea is good. Thus if plea
in bar avers a material fact omitted
in answer the answer is cured by it. So if answer
avers a material fact omitted in the
plea in bar, the plea in bar will be good
for in this case there will appear on the
record in total cause of action, & altho
it does not appear in its proper place
& is not pleaded by the opposite party
still the defect is cured 5 Bar 197,
shear 186, Com. test Plea 684, 837

But in substantial defects no person
can aid his adversary by pleading over
again instead of demurring. They can
be cured in any manner —

Laws 148, 150, 158

General Rules

If the party thus verifying, should conclude to the Country the other party could only deny it Cawson 145, Doug 18, 2 B & 109, Bur 772

If Pleads gen issue may be joined, and this is good. If he demurs, issue may be joined on it, but if he makes special plea in bar he must conclude with a verification and Plf may either traverse this plea in bar or he may allege some new matter or demur to it if he traverses the plea an issue of fact is formed but if he pleads some special new matter he must conclude with verification

The Pleadings then are then 1st the declaration 2 Plea in bar, 3 Replication, 4 Rejoinder, 5 Surrejoinder 6 Counter 7 Surrecounter

General Rules

No pleadings have ever been carried
farther than surrebuttal

3 B 62m 911 4 Dec 6

In every stage of the pleadings whatever
is pleaded on either side after the plea has
been made is intended to fortify what
that party has offered before by answering
what is last alleged on the other side & if
he does as this will be a departure

4 B 62m 17m 304, 3 B 6710 Row

7. 2 Bay 1449

And finally to be observed that the
infragment of the lot is to be retained when
the whole record taken together—

The rule, infragment must go against
the party that has committed the first ma-
terial mistake or fault in pleading

Thus on whom the default is the plea is

General Butler

Bar frivolous & Stedman writes to the place
in bar, paragraph will be removed for
St. et gain suppose the deal good but
the place in bar bad is the representation
and assumption bad, the C will look
back on the record & decide for Stedman 1799
86 1206, 1306, 96 110, 1 Salp 173, 1 Saund 235
4 B 7, 171, 172, 199, 200. 86 120, 183 B 120 B,

Every plea is to be taken most strongly
against the party making it - Int 303
4 Bar 2, Hol 292, Salk 186

Then much for the general rule, applicable
 ains now for the particular subcases.

Declarations

This being the foundation of the suit must show all that is essential to the right of action, for the ~~Plt~~ must ^{not} prove any material fact not alleged in and

Declaration

Each party's proof must be several
allegationem Plow 84, Hol 199, 1 Inst 175
Law 61, Law 68

If aul omits any material fact in ill &
affortiori if aul discovers any fact affirmative
by which it appears the Plf has no
cause of action, he can't have judgment at all.
The aul is otherwise sufficient, so is det
on bond Pl gives the day of payment & it
appears the writ was dated before this day
he can't recover 7 Co 24, 52 Laund 198, Plow 84, 4 Ba
Court 4, 4, 77 Inst 4, Law 61, 70 82, 73
13 Co 111 325, and regularly where it appears
that Plt has no right to a writ he
can't recover that part, so if he
alleges two distinct things, in cover and
trover & in one it appears there can be no
distinct recovery there will none —

But if one bound by contract discharges
himself for the performance he can't have
recovery he may be sued for

Declaration
action will lie against him before the
time - Yet covenant to enforce B at the
end of 6 months & at the end of B it enforces
& B may immediately bring suit, but
Gault thinks it not law for here it might
repurchase & Co 21. This is not to be presumed

any objection that destroys the gist of
action is fatal to the action - by gist is
meant the ground of action in that
without which there can be no recovery

In trover conversion is the gist of action
and if P's only states taking his bad and
4 Bar 8 & 11 Mod 305, Doug 555 3 B Com 395, 4 Wm
472, 2 W B 201

In the law of pleading you will often meet
with the words inducement & aggravation
inducement is meant matter in the
way to the principle matter by way
of claiming it or showing what facts
it or in what manner it happened

^{inimication}
By aggravation is meant under what
aggravating circumstances the wrong
was committed ^{for} aggravation applies only
to wrong not to contract Laws 66, 69, 70

The Deed must contain certainly i.e. must
be clear, intelligible well explained - &
different degrees of this are necessary in
different cases

In diverse cases the utmost certainly is
required, this certainly relates to the discri-
tion of the parties, time & place & the sub-
ject matter of dispute. These things
must be clearly understood so that a
regular issue may be joined, that the
adverse party may know how and what
to answer and also that the Ct may give
judgment

As to inimicement & aggravation

Less certainty is required, for they can
be traversed & therefore can't be taken in
suit, & if so this not so necessary that I
should know what to answer to
Laws 71, 2

Deliberation

1 West 407, Plow 24, 122, Collier 78, 97, & Co 35
4 Bar 8, Law 527, Cases 683

"This doctrine of certainty" I shall treat
more fully hereafter. I here observe that
the words "said", "aforesaid", "invention"
are never sufficiently certain if two
antecedents have preceded to which they
may refer 8 West 178, 2 East 66, 2 Bay 388

A deb may ^{be} ill in part from uncer-
tainty & the rest of it good. Camble 652
2 Sams 579, - 1 Salk 218, Tindal & Goodrich
he may recover, 1 Sams 286 note law 54

When deb is faulty advantage is to be
taken of it by abatement ^{it is} never an
motion in arrest of judgment. It is
a chance to take notice of it, it cannot
regularly be pleaded in abatement, but
is noner is to be reached by abatement
because it does not appear on the face
of the deb, so also if deb & writ differ abate-
ment may be pleaded 5 Bar 8, 1 Salk 212, 220
1 Sams 15, Nels 478 Law 172

2
Declaration
of promissory notes or bills of exchange
Ridg 196, Salk 128, Taun 642, 1 Levin 184, 2 Ld 151
Cler 417, 2 Bay 178 & New R. 63 51 224

A debt may be either general or special
So in indistinctum opum as it may state
it generally or how I received money to be
used, so in Eng is an action for assumpsit
It may, declare generally or he may declare
in own title 4 Bar 8

The joinder of Parties, in Declaration

As a general rule that where two or more
persons are jointly interested in a right
they may and are to join in action
for the violation of it, and this whether
the action sounds in tort or contract as in
the case of joint obligees & covenantees
so joint tenants should join in action
for trespass on the joint estate 1 Inst 104
198, 3 Bar 696, & Co 186, 19 A. & W. 651

But if the right of one person has been in

^{Joinder of parties,}
fringed only he can't join another in his
and this is called a misjoinder and gen-
erally may be pleaded in abatement by Jf
1 Leon 13, Cro. El. 149, 1 Leon 315, 4 Leon 566
18 D. 144, 1 Leon 157, 2917-5, 7 Pres. 651, 1 Wm. 164, 1278

But the omission of their joining who
ought to join is called nonjoinder, Ex-
ecutors must join one another, they are
all but one representative of the state

There is greater unity between executors
than between coparceners, they must be
joined whether under or over age, even
if one executor refuses to act he must be joined
1 Leon 2918, 9 Co. 77, 2 Salk. 3
That, he may be sworn, after the suit
has been commenced

But the nonjoinder is pleadable in abate-
ment only, there no exception to this rule
where persons are jointly injured, suppose two
persons are slandered at the same time by
the same words here the injury of one is ^{no} se-
nior to the other, & his joint right is violated

Joinder of Parties

So also in a writ of ⁵¹¹ ~~trespass~~ ^{trespass} if two persons should by
the same blow be beaten by a third person
they can sue jointly 4. a. 10, 13. ⁵¹¹ ~~trespass~~ ^{trespass} 3, 2, 1
427, 2 Leon 211, Cro. El. 312, Dub. N. P. 1, 664, 512

On the other hand, if the cause of action
arise from any joint act of two or more
persons, these persons may be joined, when
inlander persons that verdict can be
sued jointly, but if two or three merchants
alibet they may be sued jointly 2. Wils. 109
2. Burr. 985, B. n. p. 5, Cro. 674, 1. B. n. p. 11, Palm. 330

If two or more persons sign a joint bond
they must be sued jointly & so if they make
a joint promise or note or in all con-
tract all joint persons must be joined
but surs in torts B. n. p. 5, 1. B. n. p. 6, Hatch
2. 2, 4. Bar. 10, 2. Burr. 985

But two persons cannot be sued jointly
for two distinct acts wrong

Julia 153, 4. Bar. 15

January 4 1863

If one joint covenantor dies, his executor or administrator cannot be joined in suit, rescendi applies and right to sue is vested in the survivor, but he must account to the executor for he is his trustee, so also the last survivor alone can sue, his executor alone must sue, but must account to the other executors. 1 Bos & Pul 545, 1 East 497

As to contracts if two or more persons join in making, they must be severally in any action brought on that contract. 7 Bos 697, 3 Lath 292, 2 Term 99

But if a number bind themselves jointly and severally, either or all of them may be sued, but more than one & less than all are not to be sued, for this is neither joint or several. 1 Bos 697, 3 Lath 292

2 Bos ⁶⁰⁸ 498, 3 Lath 26, 1 Sid 238 & 7 Rich 582
1 N.D. 291 E.

If two or more persons bind themselves by one contract the contract is joint of course.

June 2, 1855

unless the term of it imply a several obligation, so the promise to pay is only a joint contract 3 Bar 697, 2 Atk 31, 1st B 236, Chitg B 2, 175

And the executor of the deceased partner
can't be sued ^{or sued} with the surviving partner
1 East 485

If there are several executors those only
can be sued who have administered or ac-
cepted the trust. The rule is different
where they are trustees 1 Saunders 291, 9 1 Lion 151
37 Pet 557, - Com Dig 4 10 but abate 1 Levin 151

Then for of joinder and non joinder

The rule is that several causes between
the parties may be joined in one suit
if they are of the same nature, but this
is a vague rule, this rule is not well
expressed Com Dig tit actg 4 Bar 11, Combs 224

What is meant by causes of the same
nature has been said to be causes that

under of causes
receive the same judgment at Com Law
They are said to be within the rule & may
be joined, this is a general not universal
rule. Ellis Com Rep 7 - 3. Jan 191 - Vent 350
as well as on ~~caption~~ ^{caption} ~~in records~~, the Court must ask
one of two questions: 1. Was 191 Darg 1 & 2 Wils 219 1 Vent 350
Thus debt on bond and debt on loan may
be joined in one declaration making two
counts, these are of the same nature, but
the gen ipse here is different, So also debt
on judgment, on bond, and on simple
contract may be joined in the same de-
claration, being similar though in case
the gen ipse would be different. 8 Ellis 820
1 Vent 350, 17 Rep 276 - 1 Wils 212, 10. Jan 30

It has in each of these cases the judgment
at common law would be the same, though
the last rule was not universal, but in
several causes of action require at
Com Law the same judgment and the
same gen ipse, ten or twenty bonds
may be sued on one record 7. 9 Rep 276
1 Wils 212. It has been questioned whether

Joinder of causes
of indictment & assaults & batteries may be
joined if I think they may for they are both
trespasses and both have the same gen
if so

Several trespasses may be joined in debt
if several counts
where they were committed with force
for here the judgments are the same
which is a causae at com law

also several trespasses on the case
over slander, malicious prosecution
The gen issue is the same & so is judgment in
all of them 8 Co 78, 1 Inst 223, 2 Wils 319, 3 East
70, Cas 230, Doug 652, 2 Bar 525, 2 Wils 843
2 Wils 252

So also in many cases where the issue is
different and judgment is the same
two counts may be joined in debt, so debt
on bond an judgment and on loan
may be joined, so I think debt & assault
it will lie the judgment is the same
The gen issue is not, 1 Port 566, 6 Bl 207, 6
Hill 147, 4 Bar 11
But when it is said that several causes

Non joinder of causes
Action of the same nature may be joined
It is to be understood they all cumulo
are sued for in the same right, for if they
sue in different rights they cannot be
joined tho the parties are the same, thus
executor cant join for money owed a decedent
or claimed as executor & himself, for
then he sues in two distinct capacities, for
in this case there can be but one judgment
and it cant be shown how much he received
for the different rights, it is the same as if
Pliff should join in the same debt

Salp. 10, 3 Wils 659, 2 St 1291, 1 Wils
171, Halst 88 10 Mod 315, 11 St 190

Next What causes of Action
cannot be joinder?

1st Trespass and contract can never be
joined, for gen issue & judgment are
different Salp. 10, 1 Bar 30

Nor can trespass and case arising ex delicto
be joined, as trespass for taking goods &
trover for converting them cant be joined
trespass and slander, trespass and mali

^{Michigan}
cious prosecution. Treason and assault
can't be joined, nor can trespass on the
case arising ex delicto be joined with
account arising from tort committed
with or without force, so trover and assumpsit
can't be joined, nor can a count
sounding in tort committed with or with-
out force be joined with a count sounding
in contract. 1 Vent 366, Jenking, 211, 2 Hay
239, 2 Wils 319, 2 Burr 1114 - Carth. 189, 1 Bos 38

Nor can debt and account be joined
the judgment is the same and they be
both founded in contract, nor can ac-
tion of account be joined with any other
action because of the peculiarity of the
proceedings for in account there must
be two judgments. 1 Burr 21, 4 Bos 11, 1 Wils 22

Perhaps in Bos. account might be joined
with action of book debt, tho' I think it
improper as book debt may or may
not be before auditors, tho' it generally
does go before them.

Non joinder as in case

Mr. Joinder

The distinction is this when the ^{joinder} joinder and the issue are the same the actions may universally be brought in the same ^{act} act.

In ^{most} many cases where the ^{issue} joinder is not the same but the judgments are the same, this rule can only be learned from examples. The cases must seem to include all the exceptions. On the other hand when the judgments are different they can never be joined.

If different causes of action are joined there can be no recovery, this is an insurmountable objection. I may either demur or let the suit go on and arrest the judgment, Feb. 10

X

Barthol 426. 3 Leu 99. 11 B 108

A misjoinder of cause of action is wholly different from what is called substantially. A misjoinder is meant the joining of ^{different} different causes, by substantially is meant defect in form.

^{Allegiance}
When misjoinder is immaterial is
there can be but one judgment, but on
various causes would require different
judgments on the same action.

Yet there is material difference between
to be observed when there are two causes of
action and but one is accompanied with
aggravation, thus in action of trespass,
quare clausum fregit, for breaking
house, destroying goods, beating ser-
vants, now there is but one cause of action
the breaking the house is the gist the
other things are aggravations, it is a
continuation of the same injury, the
the destroying and beating are ground
of distinct causes which can't be joined
yet these may be laid with a per quod
and recover by way of aggravation
That there are not separate actions joined
appears from this, that if I can justify
the breaking, the action falls, except

by a pig. moment for the loss of ser-
vice 2 L Ray 1032, Earth 113, 27 Ray
107, 6 L Ray 88, 57 Ray 161

Without a per quod there could be no
evidence of the loss of service, The Defendant
joins then several causes of action in one
declaration, but he is not obliged to do it
it is no fault that he has not joined
them, but where there are several ac-
tions brought for causes of the same
nature, it is usual for the Ct to com-
pel Plt to join them, but they will not
as if there are two different grounds
of defence or different judgments or
damages, the Ct make this compulsion
again costs Comb 242, 27 Ray 69, 2 L Ray
1149, 1128, 4 Do 11, 2 Ray 1031, 1161, Digitt 377
7, 1 Phill 196

Where there is a misjoinder Plt. can
enter nolle prosequi as to one count
or part of the debt but the whole debt
is destroyed, he may enter nolle prosequi
as to the whole, but not as to part

11 Hen B. 108

This case is now in question, see the case of the King v. the Bishop of Exeter

Non est actionis nuda

It is not enough to agree with the writ, for
there is foundation & all subsequent re-
citals & Par 12, 13 Dan & Hen 84, Hald 180
C. & Ellis 325. The reason is always given
is then a debt without a writ.

When the right of action arises from
the performance of some precedent con-
dition the plaintiff must state performance or
to an incurable defect 7 Co 102, Saunders 319
1 May 545, 7 IR 125, 12 H B 574.

But where the right of action is guaran-
teed by condition subsequent the plaintiff
need not show the condition subsequent, this
is the defense of the defendant, he must plead it if
he wishes to take advantage of it 7 Co 10
1 IR 638, 1 H B 254, 7 H B 574, 4 IR 65

So also if there are reciprocal covenants
the plaintiff need not show performance

Succession rules

This if I promise to deliver a horse to
 B in 6 months, & B promises to pay \$100
 A may sue B without averring delivery,
 but if the promise is to deliver the horse
 before he receives the money, he must
 aver delivery & call Debt \$100 Dec 25 91
Com Ct 25, the 293. & N Puts 1240 on B.

It has been ordered that Edw shall pay
cont. up to the time that the let order
a consolidation of several suits, tho^o
can see neither law nor reason in the
2. 7 Be

Where evil is good in part & faulty in
part & if dismurs, the dismurs must
be overruled, because It may recover on
the good part or count them as 6.

6th 184, Hlab 178 1860 115, 2. Paum 229, not in
majority of cases, how one gets can't will destroy the rest
But in cases of the *Prima* where part of
leaf is eaten & part bad and a vermin is
found with entire damages, judgment
must be arrived for it can't be determined
how much of the damages is attributed to

Miscellaneous Rules
The grantor has the bad part, but it
verdict apportion damages to each distinct
count or the amount of each damage
appear on record. Pltf must have a
verdict for the good count in his deed
Hob 148 Gf 104

But the rule that Pltf may recover on a
good count joined with a bad one does
not apply to one entire indivisible demand
part of which is good & part bad, the whole
in this case is bad, so if a plea to deed
does not answer the whole of it, the plea is
bad, thus if Pltf sues for assault & battery
If justifies a part, but says nothing
about the battery, Pltf recovers for the
whole *Sanna 28 337, Com P. & 35 do 245*
2 San 249, Polk 712.

If jury give greater damages than Pltf
demands, Pltf may release as much as
he chooses & take judgment for the rest
but this is not necessary as Ct will apportion
the damages to Pltf demand 10 Co 115
4 Cas at 114, 364, & Bar 223, Moore 28

2. *Quilley 244 1250*

Unskillful Rules

And so if ~~Def~~ should require more than
what is due, if the jury give more ~~Def~~
 may release any part & take the rest
 to ~~Def~~ in judgment sure for two times
 of land and by his after acknowledgment
 he appears to have title to only one, but
 the jury give both in his favor, he may
 release one to ~~Def~~ & ~~Def~~ & ~~Def~~ are bound to do so
 It won't let him have more than he asks
 in his deed 4 Bac 26, 1 Roll 785, Stiles 174, 1
 Saund 282, 5 not 5, 1 Hume 785, 4 Bacon 195, 292

113, 123,

If deed is insufficient in form it is reg-
 uired to be aided by pleading over.
 If insufficient in substance it is aided
 by ~~Def~~ shewing what ought to have ap-
 peared in the deed Com di O, 635, 837
 260120 & 760245 Laws 19

readings which follow Section

These commence at the part of the 1st, the
declaration being the plea of Not Guilty. The 1st
plea are of two kinds 1 Defective & 2 the
action Defective were so called because
merely to set up the suit, these do not deny
the ground of action or touch the merits
of the suit & Bac 303, Webster.

In Eng by it is Defective plea are ad-
mitted without an averment of their
truth & Bac 303, Webster.

There are three kinds of Defective Pleas
1 to the jurisdiction of the Ct. If this there
are several kinds as the privilege of
not to be tried in that Ct. being an assa-
ult in another, or when a cause arises
out of the jurisdiction of a Ct. of
jurisdiction, I may plead the jurisdiction
of the Ct. Bart, Booth 11-754 & Booth 544
18-18-207

Attorney, in relation
But the privilege of attorney holds only
where they are sued in their own right not
in the right of another a executor or an
administrator, nor when they are co-defendants
with others who are ^{not} then privileged for they
cannot communicate their priv. to others
nor in an action not cognizable by the
Ct in which he is an attorney or officer
or in the case of real actions in Eng not
cognizable in Th B, in these cases he cannot
be sued jurisdiction of Ct

C Ellis 85, Salk 2, Hale 117, C 84 & 85

But where ^{a Ct} has gen jurisdiction, it cannot
be pleaded in to the jurisdiction that the cause
of action arose in a foreign country if
the action is transitory, but seems if not
Real, ~~personal~~ and criminal actions
are local personal such as a quære
debit & credit, ap. bat are transitory &
may be sued in any County Cow 161

Journal of the Court
175, 181, 184, 185, 186, 2. — Kent 177, 186, 187
180, 182

Every sovereign state is to another sou-
verign state as one Country to another, as to
to all municipal regulation it is
entirely distinct from each, and no crim-
inal in one it can be punished in another
nor any personal action that arose in
it can be prosecuted in each, but transitory
actions may, Etiam in delictis

Another plea to the jurisdiction of the Ct is that
it has not cognizance of the subject matter
but I need not plead, for this is saying
coram non iudice and I may assert
the disagreement and it must dismiss the
action, so B & C of C Pl. can try a criminal
or murder, 10 Co 68, 1 Rep 333 1 East 452 435

A plea to the jurisdiction in the first is a plea
of pleading, because it is raised by plea
and over, but this is not always the case
as in those cases where the Ct have not

words of the Court, now suit in C.P. 175, 181, 184, 185, 186, 187, 180, 182
175, 181, 184, 185, 186, 2. — Kent 177, 186, 187
180, 182

jurisdiction of subject matter. 1 Port 147 & Holt 126

According to English practice the Plea to jurisdiction must be signed by the party not the attorney, for the attorney is to get leave of Ct to plead, and by asking leave he acknowledges the jurisdiction of the Ct. 6 Bar 36, 6 Ct 140
Dennis v. 146

But this is not the case in Con. this plea comes under jurisdiction of Ct. i. e. whether the Ct will have jurisdiction of the cause
120 205 & Bar 95, 3 R. Con. 303, 5 R. 763, 5 R. 145
Law 169

It was formerly the com. in Con. that if cause was dismissed for want of jurisdiction by Def. plea that they should pay Def. cost, and if dismissed in officio by the Ct they paid not for him with costs, but then taking cost without law and reason, the Pretence being this was to punish Def. for bringing the suit & remunerating the Ct for expenses. But this must be done by another action which this taking ought not to do & cannot prevent, But if the Ct have no jurisdiction how can they say to the cost to the Def.

1 Bar 45. Laws 182, 9, 3

Continued

This is absolutely intended only to those actions brought in Itty own right, not to other action in Case of Admiral, otherwise the rights of others would be infringed as no other person can bring the action during this outlawry, or even after the time when he is executed

1 Inst 128th 3 Bar 462.

But again, the outlawry is ^{of the executor} good bar to an action by his executor, for if the person is out of the law, the action is brought without impediment at all himself, then his agent can not

1 Bar 462, C. Butler, 182, 9, 3

But the an outlaw can not sue, he can be sued, for the outlawry is intended only to take away him of a privilege, also many men would become outlaws, if he is used to defend himself in his case

3 Bar 461. May 1 - 1825

But lawry may always be pleaded as a deliberate plea, or sometimes in bar to the action

as when the cause of action itself is forfeited
or if they should sue for felony, here his goods
and chattels are forfeited, there are none of
his but he brings, here a plea in bar is good
not on account of the outlawry but the
forfeiture of goods & chattels, And so there here
might be a dilatory plea, 5 Co 109, 7 Co 29
1 Inst 29, 128 C. 1 Bac 14

But if the cause of action is not forfeited
then only dilatory plea arises from outlawry
i.e. outlawry for a crime short of felony works
forfeiture of goods & chattels ^{to the} there fore in no
case below felony, is this a plea in bar, so
where an outlaw sues for a trespass & shallers stand
mal prosecution & or any injury to his person
or character, his outlawry, can't be pleaded
in bar, but to his disability, for the rights
are not forfeited. Pleas to the action and a
~~substantive~~ ^{substantive} plea cannot be pleaded for the
same person, i.e. the same matter can't be
inserted on for two different purposes.

1 Inst 128. 7 Bac 261

of excommunication and alienage
The next disability at Com Law is
Excommunication, ^{not here} but this is not known.
now 1 Inst 133, 4, 8 Co 63, - 2 Bar 319 Excom don't abate
the writ, absoluteion is the only special mat-
ter as a plea to excommunication
8 Co 90, 2 Bar 320, 1 Inst 133, 4

Another ground of disability is alienage
This is in some cases a legal disability, this not
in all, An alien tho a friend can't main-
tain an action real or mixed, he can per-
sonal actions Count 171, 3 B Com 386, 2 H 1312
1136 1371, 1 Bar 4, 83, 4, 2 H 439, H of Com 279

the alien enemy can't maintain any
action in a Co of Com Law, he is under the pro-
tection of the laws of nations & must apply
to such Co as are pointed out by their laws, a
Co martial or other 1182, 1 Co 160, 63, 6 Mar 23
1 Bar 81, 2

This is a general but not universally ab-
solute it is decided in Eng. that an alien enemy

may maintain action on a ransom bill
Long 619, 625. 3 Bar 1734

So also if an alien enemy resides under a
Ras liem. or protection. its come answered.
under a government he may maintain
personal actions, he is present or alien den
1 Bar 4, 84. Hall 48 Lt 1582 North 221, 87 Bar 165
2 Str 510.

It is an unsettled point whether an alien en-
emy not having a protection or liem. can
maintain an action in the rights of another.
Blin 142, 687, 1 Bar 84. It is clear he ought not
to be allowed to maintain the character
of an agent, or he ought not to be allowed to
avail himself of it, the alien friend may
maintain action chattel real in the right
of another. 3 Bar 84. 3 Bar 148. Goddard thinks he
ought not to be an agent or executor or administrator
It is now settled that an alien of friendly en-
emy in Eng. are good executors & they sue
for real property.

The next dispositive is coverture, the married
woman without her husband, she is

ability is a total plea in abatement

Earth 142, 3 7 Rep 671, Law 107

It is a general rule that what can be taken advantage of by a total plea cannot be taken advantage of in any subsequent part of the proceedings 6 Rep 706, 12 M L, 17 W 97, 621 76

It is a rule in Eng. that if a woman marries while she has a suit pending, the marriage causes the suit to abate, but is recessed in Conn. for it may continue if the woman marries 1 B C 310, 4 B C 39, 1st of Conn 337

That ~~plaintiff~~ Plf is an infant suing without guardian or near friend is pleadable as a disability 3 B C 148, 3 B C 301, Earth 123, 1st of Conn 18

Lastly, it is pleadable to a disability of Plt that he is not in age so if an action is brought in the name of a reticent person

3 B C 301, 1st & 2nd 44, Law 104

Plea to the disability of the Plt concludes to the person of the Def. Thus "Wherefore he pray, judgment whether the said Plt

^{Attorney}
ought to be answered, ^{But is it when}
where the disability is a permanent dis-
ability, but where the impediment is tran-
sitory or an outlawry or excommunication.
Now here he prays the Oth may remain
without day till the disability shall cease
Tidd 585, 300 Com 203, Hawk 103, 0

⁴⁷
The third kind of dilatory pleas are those
in abatement, a word denoting pros-
tration, demolition in law or in nuisance
or misnomer, so to abate a writ is to re-
move it 1 Inst 134

Pleas in abatement extend generally to the
writ only. Mistakes in the count or deed
are to be attacked in a different manner
viz by pleas to the action, or if defect appear
on the face, by demurrer

3 B & 11, 1 Bar 15, Salt 298, East 172

In case there is no difficulty between the
writ and deed for they appear separately

think that dilatory Pleas must be made to the writ
always

Can they ^{instrument} be joined together & are one joint
instrument. In Can the writ consist of that
part of the record which precedes the state-
ment of the cause of action, the deb begin
with the words "whereas the P^{ty} declares &
says," and ends with demanding damages,
and then the writ commences with "hereof
aid not," The writ contains that part ad-
verted to the Sheriff, the deb that which relat-
ing to the cause of action and demands damages.

But tho it is generally true, that the plea
of abatement can't reach the deb a plea
which goes to the writ is always a plea in
abatement, But a plea in abatement
can not always go to the writ, thus mi-
nor is ground for abatement and there
is in the Deb so also where there is a con-
tradiction between the writ & deb the plea
of abatement is the proper plea, thus
(say Gaskin) I think in this case the plea
to the writ, 2 Bac 301 4 Bac 8, 51 Lawes,

Abatement

In Con. is the practice to come in by plea of abatement of a writ between an instrument declared upon & its description in the deed. In Eng aver-
tage is usually taken by praising Eyes of the instrument and then by denudring or by alleging its in evidence, and this may also be done in Conn. Conn. tit. 11
§ 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Pleas of abatement are always represented by judges and lawyers as odious pleas because they do not go to the merit of the case and only to delay and put the pley to more trouble, and is a rule that the least inaccuracy in a plea of abatement is fatal, they cannot be favoured by the Ct
97 May 185, 4 Edict 4787, 3 Edict 189, but not at all
Law 56, 107, 134

I will now consider the dif causes or grounds of abatement, these are either intrinsic or extrinsic, the cause may be in the writ itself or extrinsic in the manner of serving it

1st First cause of abatement is non numer

Abatement
divided into Pleas dilatory
to the action

Dilatory Pleas are 1st to the jurisdiction
of the Ct. 2^d to the disability of the party,
3^d those in abatement. The two first
dilatory pleas we have considered, we
now consider the last &

1st
First cause of abatement is misnomer
and want of addition, misnomer is ground
of abatement whether in writ or plea

3 Bar 624, Salt 7, 3 East 107, 5 B & C 423

In Eng the title, degree & name must
be stated in Eng - 1 Hen 5, 3 B & C 406, Barth 14
& Eld 770.

The Cts in Eng are not so particular as
to name of abode or St in Conn, the only
suffices them to give off one of his title. The
may have more Law 106, The St of Henry
relates to personal actions, appeals & in-
dividments and not to real actions for
these you describe the land & the

statement
 sufficient certainly before

it is taken in. If addition is made be
 in abatement as well as an omission

7 B 6702, 2 Day 1014, 6mber 5

In Common the only addition necessary
 is place of abode in ordinary cases
 we add no title when a man is sued in
 his own private character. The place of
 abode is more necessary here because in
 all transitory actions, the action must
 be brought in that county in which the
 Defendant dwells

But when one is sued in his official ca-
 pacity his official name, or title must
 be mentioned for this is necessary to
 the action and this is necessary to show
 the right of action and not for certainty
 of description. So where sheriff is sued for
 neglect of duty his official character
 must be added so if one is sued as heir
executor administrator &c his title
 must be mentioned

Corth 702, 2 Dent 84, 3 Bar 620

Abatement

But when addition is unnecessary by way of inducement to swear deorsum et and does not vitiate the writ, so if action should be brought against A. with addition that he is heir of B. this of no consequence & will not vitiate the writ 6 R 333

3 R 333

But a misnomer or want of addition of one of two co Defs is not pleadable in abatement by the other co Defs he can't take advantage of it as a misnomer, but as a variance, for M If misnamed may if he will admit the misnomer. 3 B & 620 4 Det 98. the same rule holds in indictments as well as in civil actions

2 Hale Pl 177.

A question has arisen which is not yet settled, whether if a writ for nuisance is abated as to one of the Defs it abates as to the other. As the question is thus generally stated I think it can have no decision, for it makes no distinction whether the cause of action is joint or several

Attestment

I think that if the cause of action is joint and the writ abates as to one of the parties it abates as to the others, for one can't be sued alone and this is the same as suing one of two joint defendants alone, but when the cause of action is joint to several, or several, the it abates as to one it does not to all, but there is no decision as to this point

Booth 96, 8 Co 199, 8 3 Bar 625.

It is a rule as to misnomer that if who pleads misnomer or wants of a action must set forth the right name, this is only true way to show the present inaccuracy, & to give rule in all attestments to show how the defect is remedied

Finch 353, 8 7 Rep 515, 3 3 Bar 624

But great particularity is necessary as to this misnomer, I must not only state his true name, but traverse the name by which he is first called

20 Ed 844 Willis 554, and he must also state that he was called & known by his

From the time of its being out
the writ L R 118, 249. L. 118 ad 147, Salt 5
8th Ben 114

And if it is blinding misnomer, in a
plea where would the answer in law
always be, for a plea himself in the
law is a plea. And it is said that this is the
same, he should plead thus "and now
who in this writ is sued by the name of
the defendant? 8th Ben 114, L. 118 ad 147, Salt 5, 8th Ben 114

The ground of abatement is a misnomer in
the name of a defendant. must be taken advantage
of the plea of abatement or dilatory plea
for it is avoided by pleading over C. 118 ad 147
L. 118 ad 147, Salt 5, 8th Ben 114, L. 118 ad 147, Salt 5

If one writes an instrument by wrong
name and an action is brought on such
instrument he must be sued by such wrong
name and his true name must come in
under an alias, I think (Gard) this is not
the proper way, I think he should be suing
in his own name & then allege that in sign
another name, L. 118, 3 Ben 617, C. 118 ad 147, Salt 5

Attachment

It was an old thought that a mistake in the Christian name was of no consequence but now the names are the same as to the person

1st Mt. B. & B. 1853. Ex. 2^d 1863

When two or more persons are to be sued you must mention all their names, as in the firm Smith & Co. went on, i.e. when in the law now the persons, & 1st 1853, for the name of the firm is not necessary, as it is not, either an individual or a corporation are to be sued by their corporate names. See 2^d 1854

It is never necessary for the way of security to take advantage of misnomer, for a name is here ^{used} only by the proper name

At 1218, & B. 1855

It is no matter if the name is given in abatement, but a replication that he is known & called by that name as well as another is good. 1852, & B. 1854

But a wrong qualification, and can be pleaded in abatement, it is not a com. law, for it is sufficiently known by his name, and is bearing in it & B. 1857. The action is not 1st 1858, & B. 1859

Coverture

We have in our consideration that a mistake as to
 the place of abode was good ground of abate-
 ment, at common law misnomer was not plea-
 ciable in abatement to indictment for felony
 but now by 11 Henry, misnomer may be plea-
 ced in abatement to all indictments as well
 for felony as in other cases 2 Hawk 185, 1 Hal
 213, 1 Sidgfin 46, 4 Bar 38

The second cause of abatement is Con-
 sure of H 1 Inst 132, 1 Sidg 346

But if a feme sole is sued, and pending the suit
 marries it will not abate the suit, for she
 can sue the court by her own act abate the suit
 1 Bray 153, 14 811, 6 Jam 323, 1 Bar 9, 10, 14 811

Now if fem. court would avail herself of the
 coverture if sued alone she must plead it in
 abatement and not in bar, for unless she pleads
 it in abatement she waives all exception, for
 it is waived by pleading over. Ratib 24, 4 Bro 29

29 The rule in case of the books that coverts
 may be otherwise pleaded, and in stage of the
 action, but this is incorrect, and when

It is said that coverture may be pleaded in bar or make a ground of error, it is meant that husband may do it for she cannot, he may appear and plead coverture in any stage of the proceedings, & if judgment should go against him, he may have a writ of error, The claims of the husband cannot be defeated by her neglect or error, she cannot sue in his rights. 200, 3 Wils 551, 5 Det 588, title 284, 4, Mar 4, 10, 39.

This writ of error must be brought by the husband and wife together. 3 Rep. 10, 19

Two Jtys. or two Jtys. suing or sued as husband and wife when not so, is ground of abatement but this is not a universal rule, for ^{when} a man gives credit as his wife at the request of Jtys. he may be sued in many cases, Thus if a man and woman live together as husband and wife and he permits her to contract debts for necessaries, or she does it without his consent he is liable, marriage by cohabitation being enough. Law 105

If an infant is sued without summoning his guard or mar relativ. This is no cause

^{Infancy} ^{Plaintiff}
of abatement, but it will allow time to
be taken in the guardians if he has one & if
not the C. will appoint one ad litem, and then
may be done in any Ct before which he has
been sued, unusually on the suggestion of Feltz
1 Trist 87, 135, 5 Co 53, 50 B C 427, Ro 760, 2 Leo 105
offences 90.

If an infant is sued as an heir or an obligor
of his ancestor, his infancy can't be pleaded
in bar, nor is it a cause of abatement, but
the Parole shall demurr, i.e. the cause shall
remain undetermined till he comes of age
2 East 485, Law 105

The next cause of abatement is the death
of the parties to the suit according to the
common law rule if a sole Exor died during
the suit it is abated
1 Trist 139, 10 Co 136, 3 Elli 982, 10 B C 7

The rule was the same if one of several
Exors died during suit except in the case of
personal actions where there was a sum-
mons and service, this summons & ser-

^{Justice & Justice} ~~Justice & Justice~~ Statement
crimes are ~~known~~ known to our law, But in
real actions there is an exception 10 Co 136
8 as 26, 1 Bar 78

And at com law if one of several P^lts did
after verdict & before judgment, die
might be arrested May 483.

But if one of several P^lts did die during suit
the gen rule of com law was that it should
not abate, but in such case the P^lts should
make an entry of the deceased P^lts & provide
against the other, the survivor

11th Ed 249, 1 Show 180. 11th Ed 154, 1 Bar 8

But in the above case if he should take judgment
against all the P^lts it would be erroneous
in toto and I have observed that when ever
judgment is rendered against a deceased
man, it is always erroneous, except in the
case of murder pro tunc, i.e. when a man has
been killed and is ready to have judgment rendered
upon him & the Ct postpones judgment until
the next Ct for the purpose of consideration
here at the Ct should die during the ^{term} term

Quam & Partis abatement
and it might render judgment not true, but
it does not appear in this case on record that
it was ^{made} after his death, it is entered
or renewed before & the record can't be disturbed.

Bar 119, 1 Com 51.

These are the rules of com law, but by 117
Barth 2 & 8 & 9 Wadell, and by our st in
this inconsistency of abatement is a
great measure remedied, so that under the
st, the law is this, If there are several plaintiffs
and one or more die pending the suit, it
does not abate, if the cause of action is
such as would survive against the survivors
to also with life, this can be decided the case
is good if it survives to any one, In either
case the death being registered on the record
the suit will proceed, 4 Bar 42, 2 Com 181
1 Com 84, 11 Com 22

But the course of proceeding in these
cases is different. If a sole plaintiff where the
action survives to his exec or admors, the Court
merely suggests the death of the original plaintiff

the st in Reg. 117

Variance - Abatement apt
on the record and proceeds with the suit.

But if sole Def dies, when the action could
survive against him Ex or adm the Defendant
takes out a scire facias against him Ex or adm re-
quiring Def to shew cause why judgment should
not go against him. L. D. 42, statute of limitation
abatement, Con statute is then only to the superior or
County court

Real action, however in most cases abates
on the death of a sole Plff or Def. The heir to
the estate descends is not put in the
same situation as an Ex or adm by statute

But real actions brought by several Plffs
or against several Defs and one dies, here
it will survive to the survivors in the
same manner as personal actions, see Da
have nothing to do with real property
Ex Eli 892, - 1 Inst 139, 10 Bac 7, 9

Another cause of abatement is what
is called in law a variance

L. D. 43 -

The first cause of abatement above considered
is misnomer, the 2 coverture, the 3 infancy
the 4 death of either of the Parties & now 5 11

Variance

The real action survives to the heirs of the deceased party

Varianse Abatement

A variance means a difference between
two things which the law requires to be like.
1st If it varies from the writ, this is plea-
able in ~~the~~ abatement, the truth is the deed
itself abates the writ (Gale 5, 11 B 249, 4 B 8)
If the variance is in some matter of form
the plea of abatement is clearly necessary
but it is said in some of the old books, that
if the variance is in the substance the plea
of abatement is not necessary, for judge
may be arrested and the Co are bound to
give to dismiss it, but this is not the present
practice, it is usual to plead in abatement
in both cases whether the substance or form
contains the variance (Habs 279, ^{199, 18} 2 Bar 43,
6 Co 42, 121, 185, 198, Contra 2 Wilb. 394, 2alk
618, 2 ~~Habs~~ 249, 5 ad 303, 1 Bos & Pul 19, 26
It also varies between the instrument
and the description given of it in the writ
or return is cause of abatement 6 Co 14, 2 Wilb
282, 2 ~~Habs~~ 314, 1 Bos & Pul 69, 6 Dig ^{1st} 148 & 149
In this case the usual method in Eng^o

Varianus, Hatesmen

to take advantage of it in evidence un-
der the gen ipse laws 752, 6 Plowd 84, 4 17th 612
887, 8,
15th 154 note Darg 640, 17th 612, 4 17th 612, 682

There may be a variation where the contract is verbal, here advantage must be taken under general issue, and then can be no plea of abatement, for you can't pray aver of the contract.

In Can if the instrument & its description
differ materially, the same may be done in
the in Can too
ing, but it may be taken advantage of
several ways, & By plea in abatement

At 18, Pound 41, Flow 22 & Feb 29, ² 1855
 & 21, the ² 1856. Feb 11, & in current air, so in, for there
 is no such thing as descending to the sea, but a declivity

Non joinder & Misjoinder of Parties, Abatement
It is said that a misjoinder as such could not
be a disadvantage of a plea in abatement, but
it is a disadvantage of a variance in
either of the foregoing ways ^{by the parties} 11 Rep. 550, 4 Dec 612
49 Rep 612,

Another cause of abatement is the non-joinder
or misjoinder of parties in a suit, if the parties
required by law are not joined, or if they are mis-
joined it is cause of abatement. The authorities
as it respects joinder are very important.

If one sues alone where others ought to have
been joined, the nonjoinder is always pleadable
in bar of abatement. So also if one of two
joins ten or ten in common, or one of two
joins obligees or covenantees or promisees
sues alone it is always pleadable in abate-
ment, this rule applies to Plff only 1 Vent 184

189, 190 ¹⁹⁸⁷ 61 Saund 291, 11 Rep 4, 5 11 Rep 243, and the
whether the action arises in contract or tort, but
if the ~~action~~ ^{cause} is due to the former, only abatement to the latter.
On the other hand if several Plff join when
the right of action is only in one it is plead-
able in abatement 11 Rep 22, 6 Ed. 143

11 Rep 294, See if there are too many or too few Plff
it is pleadable in abatement

Non joinder & Misjoinder of Parties. Again
Thus for the non joinder of P[ar]ties may
be pleaded in abatement, but ^{it} is not
some where the need not be do. ^{and}
advantage may be taken in a different
manner, for in contracts if P[ar]ties do not
all the parties advantage may be taken
under joint issue, so also if there is a mis-
joinder, and in these cases if the contract
is a written Ift may pray for it, rectify
it and demand the declaration.

But see Pri 152, 2 H 820, 1 Bo & Pul 75, 1 Lam 112
291 79 - 2 Wils 232

In these two cases if it is not necessary to
plead in abatement the he may do it, for
here the contract declared upon is not the
one proved, I would observe that according
to late decisions if one partner who has
withdrawn his name from the firm but
receives the share of profits, is not joined
in an action brought by the company
still no advantage can be taken by the
non joinder & see 108

Again one sure alone is not a sufficient

17
the before the ^{death} of the ^{deed} that other parties
ought to have been joined, the deed is good
had a ^{man} cannot be cured by verdict, and if
is a written contract he may pray a verdict
rights & desires to it 5 Co 18, 1140, 1141, 1142, 1143
291 ⁷ ~~8~~ Bar & Pul 67, 2, 1142, 314.

But in tort the case is otherwise, there is
nothing as variance in the case of tort
so if one of two joint lessees sues another person
in trespass for entering on land, of the joint
tenants he can't take advantage of it under
verdict but can only do it by plea in
abatement, now the reason of this is, the ev-
idence won't support declaration, in the
case of contracts it runs thus I did not
promise you but you & B But in tort
I can't make this plea, for he has tres-
passed on other land but not his exclusive-
ly, must can if plead veridict, the the
fact of non joinder appeared on the face
of the deed but he must plead in abate-
ment 67, 1142, 1143, 1144, 1145, 1146, 1147, 1148
not law 1142, 1143, 1144, 1145, 1146, 1147, 1148

in tort. An. Misjoinder of tort
it gain if there are when the right of ac-
tion is in only one, Advantage made by
by demurrer, same as in the case of contract
and the reason is If has not committed
any trespass on the two things, and where
one party recovers all the loss, will recover
the judgment can't be rendered against one
or for the other, But in case of If, misjoinder may
be rendered against one or not the other
Bro Ellis 143, & 144, & Bac 200

If one part owner of personal chattels sues
in an action sounding in tort, for his
share of the damage & If does not take
in abatement the nonjoinder of the other
owner but suffers judgment to be rendered ag-
ainst him, & afterwards the other part
owner sues, If can't now plead in abate-
ment nonjoinder, 7th Ed. 2. 79, 1 Ed. 1. 152 & 153
622.

If the non and misjoinder of If's

If one partner is sued only he may take
in abatement, & so with abliges & joint acts

as if it ^{does} appear on an ^{and} there is no other
living 141 Bract 276, 67 Bur 1327 369, contra
Salisbury 40

The ^{fact} is not bad unless these two points
appear viz his being a not joined & his being
alive, there have been great contradictions
in the books on this subject but it is now
settled, L.M. opinion was founded on the
ground that Pley knows not who the
parties are but if does he must there, for
plead in a statement & give Pley a better
writ

"This is a satisfactory reason the most satis-
fying one which is the evidence does not
support the rule 5 Bur 2611 2 Bur 947 57 Rep
51, Cas 427, 469, Caus. 842, 1 Saunders 291 note
4, 291 H 67 Rep 461, Salter 144 contra

Things of contr. act

In torts if rights of action grows out of joint
tenancy, two answers to me only one of the
wrongdoers, Goulded me no reason in this
Saunders 291 H 57 Rep 611, 2 B & C 182, 2 N B 365
57 Rep 469, 30th 62, 5

Now & Misjoinder of Parties - Avaling

If two persons commit a tort, one alone
may be sued 860-159, 15420, & Bar 14, 185-

There is one exception, where the action
relates to the real property of the deft. here
the it comes in tort they must be joined
or it abates. This is the only exception

17 Rep. 656, 1 Saund. 291 E, 1 Bloom. 182

In joint & several contracts, if they are not
properly sued it can only be plead in abate-
ment 1 Saund. 291 E

Every one of disclosed by plea, may plea
that another still should be joined as deft
but the new deft must show who the person is
& must tell all the deft, or he can't have
that advantage but once, but some new
def't may come & disclose himself & then he
may once disclose others
1000 B East 70, 71

If two are sued in contract when made by
one, advantage may be taken by giving

Now a stipulation of Parton that is not
for a contract made by one is not a contract
made by two they are not identical, & one & two
is not by one, 1 Ex 48, 2 Day 272, 3 East 62

There is one good reason why I should alate
when that case requires, that the Ct. may be
properly instructed how to proceed

Another cause of abatement is

The Pendency of a prior suit, between the
same Parties for the same thing,

The law allows a multiplicity of suits &
variation of Jcts 1 Bos 13, 4 Tret 48

But the suit or cause of action must be of
one kind, concurrent, & the same thing
If the first suit is misconceived, the second
one lies tho both be pending at the same
time, for they are not concurrent

They must be for the same identical thing,
the same object
15 Co 61 A B, 4 Co 43 A Hobb 184

Non est misprinder of Portion - It is a
And in a good cause of abatement the
suit be pending in an inferior Court is thin
Country, tho not in Eng
560 62, 2. Will 87, Comyn

49, 50

But it is not now, say that the prior
suit should be pending at the time of
abatement, but only at the time it was
even commenced, two variations de initio
100ae 13, Part 3. 10ae 10

If the first action is misconceived, the
second one is good, for they are not con-
current, the pending at the same time

1 Root 355, 562, 155, 10ae 10ae 10

Book delict

The spirit of the rule is that a void suit is
not vexatious and thus the good one will
lie

The plea of abatement is good, tho in the
second action there is a new Defendant
it abates in toto, against the 2d. Showen 21
Lect. in 42. 10ae 137, 6 Bar 40 Carth 66, 7, 1 Bar 11, 14

ending of a Prior suit — A statement
whether it abates as to all pts, is disputable
or only the 1st first sued or the first action
sued.

But if the second suit is commenced on the
same day, the first is abated, the provision
the second commenced after the first abated
and will not abate.
Gelding of Com. Cases 251, Allg. 34

1 Bosw 14 —

It is no cause of abate that a prior suit
is pending against a stranger or another
person, it is when all are liable in a sech:
erate suit.
Pls 420, Hob 137.8

And in indentment, no cause of abate
tho a prior ~~suit~~ ^{suit} lies against the same
person for the same thing, for the Ct
have a discretion to take either suit.

But this is not the case in Informations
1 Bosw 13, 2 Hawk 190, 275, 367.

Informal Writ - Attachment

If two informations are made the same day, they will abate each other, & it is
to have not the before mentioned condition
and they are considered as commencing
at the same time

Stat 12.8. Moore 804, 51 Comy

49

The writ having been made issue
on any informality given in it is cause
of attachment

Law 100, Com De et alibet 1

Thus if it is not made returnable to the
next Ct, if the time preceding the first
next Ct is not too short, the writ is void.

2 Wils 700 alk 700

^{34.}
The writ must be returnable there so
that it is not to be held in suspense forever
perhaps can't get bail, he must be in
prison - the writ is void & it need not
be abated so.

Informal Writ Abatement
as the writ is not issued in proper
manner, it is vain or may be abated to

And so the Writ will abate for many the
informatives of defects

1 Showers 80, 1 Levin 2, 6 Ellis
392, 1 Sidgfin 304, 11 Dax 438 onward

In Eng, the date of the writ is not amenable

1 Showers 80

That the writ has a defect in the return
is pleaded in abet. — In Eng 15 days must
be given, the Offr to prepare to answer the
Writ

6 Ellis 10, 1 Salts 63, 1 Sidg 406, 2 Shells 461

So if on the face of it, it is insufficient
the plead in abet, but defect must
appear on the face of the writ or return
of the Officer.

Strange 813, 1 B Rich 393

A Writ will not impeach an official act
if it was proper, unless the defect is a

⁹ Informal writ - A man must
partly in the office

But in Con if it can be shown the Officer
has made a mistake, in placing in all
in Con when property is attached indeed
in process, a copy of the writ & attached
property must be left with the clerk - it is
an incorrect copy - the same as now
will, that is if the writ was read

1 Root 54, 128, 565, 2 Root 134, 346

in Con if real property is attached, a
copy of the property must be
left at the town clerk's Office

It is Con to attachment

So the want of verum in the writ is
held in abatement, So in the act but
it is here, as usual
5 Brav. 322, 7 T. R. 414, 415

But in transitory actions, a false venue
is of no injury, But the Ct. may, if it chooses
to, action to the proper venue, Law 74
11th 54, 12th 73, 84, 94, 104, 114, 124, 134, 144, 154, 164, 174, 184, 194, 204, 214, 224, 234, 244, 254, 264, 274, 284, 294, 304, 314, 324, 334, 344, 354, 364, 374, 384, 394, 404, 414, 424, 434, 444, 454, 464, 474, 484, 494, 504, 514, 524, 534, 544, 554, 564, 574, 584, 594, 604, 614, 624, 634, 644, 654, 664, 674, 684, 694, 704, 714, 724, 734, 744, 754, 764, 774, 784, 794, 804, 814, 824, 834, 844, 854, 864, 874, 884, 894, 904, 914, 924, 934, 944, 954, 964, 974, 984, 994, 1004, 1014, 1024, 1034, 1044, 1054, 1064, 1074, 1084, 1094, 1104, 1114, 1124, 1134, 1144, 1154, 1164, 1174, 1184, 1194, 1204, 1214, 1224, 1234, 1244, 1254, 1264, 1274, 1284, 1294, 1304, 1314, 1324, 1334, 1344, 1354, 1364, 1374, 1384, 1394, 1404, 1414, 1424, 1434, 1444, 1454, 1464, 1474, 1484, 1494, 1504, 1514, 1524, 1534, 1544, 1554, 1564, 1574, 1584, 1594, 1604, 1614, 1624, 1634, 1644, 1654, 1664, 1674, 1684, 1694, 1704, 1714, 1724, 1734, 1744, 1754, 1764, 1774, 1784, 1794, 1804, 1814, 1824, 1834, 1844, 1854, 1864, 1874, 1884, 1894, 1904, 1914, 1924, 1934, 1944, 1954, 1964, 1974, 1984, 1994, 2004, 2014, 2024, 2034, 2044, 2054, 2064, 2074, 2084, 2094, 2104, 2114, 2124, 2134, 2144, 2154, 2164, 2174, 2184, 2194, 2204, 2214, 2224, 2234, 2244, 2254, 2264, 2274, 2284, 2294, 2304, 2314, 2324, 2334, 2344, 2354, 2364, 2374, 2384, 2394, 2404, 2414, 2424, 2434, 2444, 2454, 2464, 2474, 2484, 2494, 2504, 2514, 2524, 2534, 2544, 2554, 2564, 2574, 2584, 2594, 2604, 2614, 2624, 2634, 2644, 2654, 2664, 2674, 2684, 2694, 2704, 2714, 2724, 2734, 2744, 2754, 2764, 2774, 2784, 2794, 2804, 2814, 2824, 2834, 2844, 2854, 2864, 2874, 2884, 2894, 2904, 2914, 2924, 2934, 2944, 2954, 2964, 2974, 2984, 2994, 3004, 3014, 3024, 3034, 3044, 3054, 3064, 3074, 3084, 3094, 3104, 3114, 3124, 3134, 3144, 3154, 3164, 3174, 3184, 3194, 3204, 3214, 3224, 3234, 3244, 3254, 3264, 3274, 3284, 3294, 3304, 3314, 3324, 3334, 3344, 3354, 3364, 3374, 3384, 3394, 3404, 3414, 3424, 3434, 3444, 3454, 3464, 3474, 3484, 3494, 3504, 3514, 3524, 3534, 3544, 3554, 3564, 3574, 3584, 3594, 3604, 3614, 3624, 3634, 3644, 3654, 3664, 3674, 3684, 3694, 3704, 3714, 3724, 3734, 3744, 3754, 3764, 3774, 3784, 3794, 3804, 3814, 3824, 3834, 3844, 3854, 3864, 3874, 3884, 3894, 3904, 3914, 3924, 3934, 3944, 3954, 3964, 3974, 3984, 3994, 4004, 4014, 4024, 4034, 4044, 4054, 4064, 4074, 4084, 4094, 4104, 4114, 4124, 4134, 4144, 4154, 4164, 4174, 4184, 4194, 4204, 4214, 4224, 4234, 4244, 4254, 4264, 4274, 4284, 4294, 4304, 4314, 4324, 4334, 4344, 4354, 4364, 4374, 4384, 4394, 4404, 4414, 4424, 4434, 4444, 4454, 4464, 4474, 4484, 4494, 4504, 4514, 4524, 4534, 4544, 4554, 4564, 4574, 4584, 4594, 4604, 4614, 4624, 4634, 4644, 4654, 4664, 4674, 4684, 4694, 4704, 4714, 4724, 4734, 4744, 4754, 4764, 4774, 4784, 4794, 4804, 4814, 4824, 4834, 4844, 4854, 4864, 4874, 4884, 4894, 4904, 4914, 4924, 4934, 4944, 4954, 4964, 4974, 4984, 4994, 5004, 5014, 5024, 5034, 5044, 5054, 5064, 5074, 5084, 5094, 5104, 5114, 5124, 5134, 5144, 5154, 5164, 5174, 5184, 5194, 5204, 5214, 5224, 5234, 5244, 5254, 5264, 5274, 5284, 5294, 5304, 5314, 5324, 5334, 5344, 5354, 5364, 5374, 5384, 5394, 5404, 5414, 5424, 5434, 5444, 5454, 5464, 5474, 5484, 5494, 5504, 5514, 5524, 5534, 5544, 5554, 5564, 5574, 5584, 5594, 5604, 5614, 5624, 5634, 5644, 5654, 5664, 5674, 5684, 5694, 5704, 5714, 5724, 5734, 5744, 5754, 5764, 5774, 5784, 5794, 5804, 5814, 5824, 5834, 5844, 5854, 5864, 5874, 5884, 5894, 5904, 5914, 5924, 5934, 5944, 5954, 5964, 5974, 5984, 5994, 6004, 6014, 6024, 6034, 6044, 6054, 6064, 6074, 6084, 6094, 6104, 6114, 6124, 6134, 6144, 6154, 6164, 6174, 6184, 6194, 6204, 6214, 6224, 6234, 6244, 6254, 6264, 6274, 6284, 6294, 6304, 6314, 6324, 6334, 6344, 6354, 6364, 6374, 6384, 6394, 6404, 6414, 6424, 6434, 6444, 6454, 6464, 6474, 6484, 6494, 6504, 6514, 6524, 6534, 6544, 6554, 6564, 6574, 6584, 6594, 6604, 6614, 6624, 6634, 6644, 6654, 6664, 6674, 6684, 6694, 6704, 6714, 6724, 6734, 6744, 6754, 6764, 6774, 6784, 6794, 6804, 6814, 6824, 6834, 6844, 6854, 6864, 6874, 6884, 6894, 6904, 6914, 6924, 6934, 6944, 6954, 6964, 6974, 6984, 6994, 7004, 7014, 7024, 7034, 7044, 7054, 7064, 7074, 7084, 7094, 7104, 7114, 7124, 7134, 7144, 7154, 7164, 7174, 7184, 7194, 7204, 7214, 7224, 7234, 7244, 7254, 7264, 7274, 7284, 7294, 7304, 7314, 7324, 7334, 7344, 7354, 7364, 7374, 7384, 7394, 7404, 7414, 7424, 7434, 7444, 7454, 7464, 7474, 7484, 7494, 7504, 7514, 7524, 7534, 7544, 7554, 7564, 7574, 7584, 7594, 7604, 7614, 7624, 7634, 7644, 7654, 7664, 7674, 7684, 7694, 7704, 7714, 7724, 7734, 7744, 7754, 7764, 7774, 7784, 7794, 7804, 7814, 7824, 7834, 7844, 7854, 7864, 7874, 7884, 7894, 7904, 7914, 7924, 7934, 7944, 7954, 7964, 7974, 7984, 7994, 8004, 8014, 8024, 8034, 8044, 8054, 8064, 8074, 8084, 8094, 8104, 8114, 8124, 8134, 8144, 8154, 8164, 8174, 8184, 8194, 8204, 8214, 8224, 8234, 8244, 8254, 8264, 8274, 8284, 8294, 8304, 8314, 8324, 8334, 8344, 8354, 8364, 8374, 8384, 8394, 8404, 8414, 8424, 8434, 8444, 8454, 8464, 8474, 8484, 8494, 8504, 8514, 8524, 8534, 8544, 8554, 8564, 8574, 8584, 8594, 8604, 8614, 8624, 8634, 8644, 8654, 8664, 8674, 8684, 8694, 8704, 8714, 8724, 8734, 8744, 8754, 8764, 8774, 8784, 8794, 8804, 8814, 8824, 8834, 8844, 8854, 8864, 8874, 8884, 8894, 8904, 8914, 8924, 8934, 8944, 8954, 8964, 8974, 8984, 8994, 9004, 9014, 9024, 9034, 9044, 9054, 9064, 9074, 9084, 9094, 9104, 9114, 9124, 9134, 9144, 9154, 9164, 9174, 9184, 9194, 9204, 9214, 9224, 9234, 9244, 9254, 9264, 9274, 9284, 9294, 9304, 9314, 9324, 9334, 9344, 9354, 9364, 9374, 9384, 9394, 9404, 9414, 9424, 9434, 9444, 9454, 9464, 9474, 9484, 9494, 9504, 9514, 9524, 9534, 9544, 9554, 9564, 9574, 9584, 9594, 9604, 9614, 9624, 9634, 9644, 9654, 9664, 9674, 9684, 9694, 9704, 9714, 9724, 9734, 9744, 9754, 9764, 9774, 9784, 9794, 9804, 9814, 9824, 9834, 9844, 9854, 9864, 9874, 9884, 9894, 9904, 9914, 9924, 9934, 9944, 9954, 9964, 9974, 9984, 9994, 10004, 10014, 10024, 10034, 10044, 10054, 10064, 10074, 10084, 10094, 10104, 10114, 10124, 10134, 10144, 10154, 10164, 10174, 10184, 10194, 10204, 10214, 10224, 10234, 10244, 10254, 10264, 10274, 10284, 10294, 10304, 10314, 10324, 10334, 10344, 10354, 10364, 10374, 10384, 10394, 10404, 10414, 10424, 10434, 10444, 10454, 10464, 10474, 10484, 10494, 10504, 10514, 10524, 10534, 10544, 10554, 10564, 10574, 10584, 10594, 10604, 10614, 10624, 10634, 10644, 10654, 10664, 10674, 10684, 10694, 10704, 10714, 10724, 10734, 10744, 10754, 10764, 10774, 10784, 10794, 10804, 10814, 10824, 10834, 10844, 10854, 10864, 10874, 10884, 10894, 10904, 10914, 10924, 10934, 10944, 10954, 10964, 10974, 10984, 10994, 11004, 11014, 11024, 11034, 11044, 11054, 11064, 11074, 11084, 11094, 11104, 11114, 11124, 11134, 11144, 11154, 11164, 11174, 11184, 11194, 11204, 11214, 11224, 11234, 11244, 11254, 11264, 11274, 11284, 11294, 11304, 11314, 11324, 11334, 11344, 11354, 11364, 11374, 11384, 11394, 11404, 11414, 11424, 11434, 11444, 11454, 11464, 11474, 11484, 11494, 11504, 11514, 11524, 11534, 11544, 11554, 11564, 11574, 11584, 11594, 11604, 11614, 11624, 11634, 11644, 11654, 11664, 11674, 11684, 11694, 11704, 11714, 11724, 11734, 11744, 11754, 11764, 11774, 11784, 11794, 11804, 11814, 11824, 11834, 11844, 11854, 11864, 11874, 11884, 11894, 11904, 11914, 11924, 11934, 11944, 11954, 11964, 11974, 11984, 11994, 12004, 12014, 12024, 12034, 12044, 12054, 12064, 12074, 12084, 12094, 12104, 12114, 12124, 12134, 12144, 12154, 12164, 12174, 12184, 12194, 12204, 12214, 12224, 12234, 12244, 12254, 12264, 12274, 12284, 12294, 12304, 12314, 12324, 12334, 12344, 12354, 12364, 12374, 12384, 12394, 12404, 12414, 12424, 12434, 12444, 12454, 12464, 12474, 12484, 12494, 12504, 12514, 12524, 12534, 12544, 12554, 12564, 12574, 12584, 12594, 12604, 12614, 12624, 12634, 12644, 12654, 12664, 12674, 12684, 12694, 12704, 12714, 12724, 12734, 12744, 12754, 12764, 12774, 12784, 12794, 12804, 12814, 12824, 12834, 12844, 12854, 12864, 12874, 12884, 12894, 12904, 12914, 12924, 12934, 12944, 12954, 12964, 12974, 12984, 12994, 13004, 13014, 13024, 13034, 13044, 13054, 13064, 13074, 13084, 13094, 13104, 13114, 13124, 13134, 13144, 13154, 13164, 13174, 13184, 13194, 13204, 13214, 13224, 13234, 13244, 13254, 13264, 13274, 13284, 13294, 13304, 13314, 13324, 13334, 13344, 13354, 13364, 13374, 13384, 13394, 13404, 13414, 13424, 13434, 13444, 13454, 13464, 13474, 13484, 13494, 13504, 13514, 13524, 13534, 13544, 13554, 13564, 13574, 13584, 13594, 13604, 13614, 13624, 13634, 13644, 13654, 13664, 13674, 13684, 13694, 13704, 13714, 13724, 13734, 13744, 13754, 13764, 13774, 13784, 13794, 13804, 13814, 13824, 13834, 13844, 13854, 13864, 13874, 13884, 13894, 13904, 13914, 13924, 13934, 13944, 13954, 13964, 13974, 13984, 13994, 14004, 14014, 14024, 14034, 14044, 14054, 14064, 14074, 14084, 14094, 14104, 14114, 14124, 14134, 14144, 14154, 14164, 14174, 14184, 14194, 14204, 14214, 14224, 14234, 14244, 14254, 14264, 14274, 14284, 14294, 14304, 14314, 14324, 14334, 14344, 14354, 14364, 14374, 14384, 14394, 14404, 14414, 14424, 14434, 14444, 14454, 14464, 14474, 14484, 14494, 14504, 14514, 14524, 14534, 14544, 14554, 14564, 14574, 14584, 14594, 14604, 14614, 14624, 14634, 14644, 14654, 14664, 14674, 14684, 14694, 14704, 14714, 14724, 14734, 14744, 14754, 14764, 14774, 14784, 14794, 14804, 14814, 14824, 14834, 14844, 14854, 14864, 14874, 14884, 14894, 14904, 14914, 14924, 14934, 14944, 14954, 14964, 14974, 14984, 14994, 15004, 15014, 15024, 15034, 15044, 15054, 15064, 15074, 15084, 15094, 15104, 15114, 15124, 15134, 15144, 15154, 15164, 15174, 15184, 15194, 15204, 15214, 15224, 15234, 15244, 15254, 15264, 15274, 15284, 15294, 15304, 15314, 15324, 15334, 15344, 15354, 15364, 15374, 15384, 15394, 15404, 15414, 15424, 15434, 15444, 15454, 15464, 15474, 15484, 15494, 15504, 15514, 15524, 15534, 15544, 15554, 15564, 15574, 15584, 15594, 15604, 15614, 15624, 15634, 15644, 15654, 15664, 15674, 15684, 15694, 15704, 15714, 15724, 15734, 15744, 15754, 15764, 15774, 15784, 15794, 15804, 15814, 15824, 15834, 15844, 15854, 15864, 15874, 15884, 15894, 15904, 15914, 15924, 15934, 15944, 15954, 15964, 15974, 15984, 15994, 16004, 16014, 16024, 16034, 16044, 16054, 16064, 16074, 16084, 16094, 16104, 16114, 16124, 16134, 16144, 16154, 16164, 16174, 16184, 16194, 16204, 16214, 16224, 16234, 16244, 16254, 16264, 16274, 16284, 16294, 16304, 16314, 16324, 16334, 16344, 16354, 16364, 16374, 16384, 16394, 16404, 16414, 16424, 16434, 16444, 16454, 16464, 16474, 16484, 16494, 16504, 16514, 16524, 16534, 16544, 16554, 16564, 16574, 16584, 16594, 16604, 16614, 16624, 16634, 16644, 16654, 16664, 16674, 16684, 16694, 16704, 16714, 16724, 16734, 16744, 16754, 16764, 16774, 16784, 16794, 16804, 16814, 16824, 16834, 16844, 16854, 16864, 16874, 16884, 16894, 16904, 16914, 16924, 16934, 16944, 16954, 16964, 16974, 16984, 16994, 17004, 17014, 17024, 17034, 17044, 17054, 17064, 17074, 17084, 17094, 17104, 17114, 17124, 17134, 17144, 17154, 17164, 17174, 17184, 17194, 17204, 17214, 17224, 17234, 17244, 17254, 17264, 17274, 17284, 17294, 17304, 17314, 17324, 17334, 17344, 17354, 17364, 17374, 17384, 17394, 17404, 17414, 17424, 17434, 17444, 17454, 17464, 17474, 17484, 17494, 17504, 17514, 17524, 17534, 17544, 17554, 17564, 17574, 17584, 17594, 17604, 17614, 17624, 17634, 17644, 17654, 17664, 17674, 17684, 17694, 17704, 17714, 17724, 17734, 17744, 17754, 17764, 17774, 17784, 17794, 17804, 17814, 17824, 17834, 17844, 17854, 17864, 17874, 17884, 17894, 17904, 17914, 17924, 17934, 17944, 17954, 17964, 17974, 17984, 17994, 18004, 18014, 18024, 18034, 18044, 18054, 18064, 18074, 18084, 18094, 18104, 18114, 18124, 18134, 18144, 18154, 18164, 18174, 18184, 18194, 18204, 18214, 18224, 18234, 18244, 18254, 18264, 18274, 18284, 18294, 18304, 18314, 18324, 18334, 18344, 18354, 18364, 18374, 18384, 18394, 18404, 18414, 18424, 18434, 18444, 18454, 18464, 18474, 18484, 18494, 18504, 18514, 18524, 18534, 18

Misconceived action — Abatement

The case of Benson is undergone a singular
history, formerly, two necessary in all ac-
tions and still all transitory, action are those
where this cause took place by transitory
places,

in local actions, ~~the~~ must be tried where
they occurred

Com Dig tit abate ff 17, 12 ac 11

7 Coke 2, 3

in com in transitory action no enquiry
made for the venue, but the county in which
the fact or the tort lies, but in real actions
we retain the Com Law, ff of com tit action
Civil

That the action is misconceived is cause
of abatement, 44th 199, Com Dig abatement § 5
Law 106

So also that the action had not accrued
at the date of the writ, it may be taken
a vestige of ex ipso or plea in abatement.
Com Dig Abate § 6, tit action E 44th 199, Com th 114, 1 Show 147

Assessment

It is said that pleas in abate begin & conclude
at the writ or duel, begging they may begin
303 & 303 Law 1089 106, 5th 132

This is only a gen rule, for when the plea goes
to the person of the Dft, the prayer if ^{he} shall
answer Law 109

When the matter of abate is intrinsic, the
plea of abate only, concludes with prayer
judgment to the writ

Law 108.0 Com Dig Abat 112

When the writ abate de facto is without an
plea, the Df prays whether the Ct will
further proceed — or it is so radically bad
judgment need not be prayed

109 -

The ^{or a plea} character of said is decided by its con-
clusion - ^{if then} Lucas 112. & Osae 59, - kept by L Hall
to decide by its beginning and conclusion
this Gould thinks is the proper rule

Laws 107 1456, & L Bay 598. 4th

49.

If a plea, begin & ends differently, rather

Character of Plea, Abatement

must be tied to the subject matter to
determine the character of the Plea

1 L Ray 593, 2 Det 1018 6 Mod 123
1 Bent 136, 3 Thom 281, 3 L Ray 11, 53, 54, 92, 107
110. Laws appendix

When the matter operates in differently,
& the plea begins & ends differently
The Reg may treat it as he chooses

Matter of defence in plea to the action
can be offered in abatement & et vice
versa, this rule is not universal,
this rule is ex quo because abate
touches the writ & not the right of action

1 Bar 14, 85, 1 Mod 244, 12 Det
400 1 Com 123 129, 10, Laws 396, 2 Wils 227

The foregoing rule does not apply where
the matter of defence is pleadable with
in abatement or bar

1 Mod 244, 4 Bar 50

Arguments. Abatement
It is said by many, that double pleadings
is proper in abatement, but Gould, is
incorrect, ~~he~~ ^{one} may only plead the causes
of abatement in suspension in their
proper order, to the same writ or the same
part of the same writ, two causes of
abatement won't lie at the same time. As the
same thing.

Law 108. Last Plain introduction
Com Dig tit abat § 3, 4, 5, 6. 1 Inst 345 A. 1 Black 50

A writ of error will lie from judgment
in abatement, but then the final judg-
ment must be reversed first, else we
know not the injury of Plf or the issue
of the action

An abateable defect is not cause of error
unless pleaded. 2 Black 151, 6 7 Rep 766, 6 Ell 554
Carth 124, But not so if the cause of abat
is pleaded in any stage of the action

L Ray 194 2 Brook Pres 53 Salk 254
Call 2, 1 Inst 343, 4 Ell 283, 475.

Judgments - A bar tenement
a writ may be abated as to part & remain
good as to the rest, It may abate to part
and stand in bar to part, but not as one
as to all 2 Br 3 & Pul 220, Lawr 106, 7.

A judgment on plea is abatement
is no bar to a plea to the action, as plea
in bar, because the judgment is not to
the merits of the case

6 Dig tit action 24, 4 Br 436 tit 7, 8.
45, 8 tit 37 B, 98.

As to judgment in plea is abate

If this for It, it is that the writ or deed be
quashed 1 Vent 22, Felt, 112. 2 Show 22
And if so in damns, it is that It was over
over

1 B 670, 790, 7, 2 Wils 367, 1 East 542
And if in own issue, ^{that} the It recover
his case Felt 112, 2 Wils 367, 1 East 544
1 Bray 54, 7 Bray 119, this is not the case in
criminal cases 2 Hawk 1574, 100 an 15

Abatement

If matter of abate is pleaded in bar, final
in argument goes against Dft

1 Ray 1120, 1 East 694, Laws 166.

Wid. practice 632.

Dft can't demur in abatement, i.e. matter
of abatement in the writ can't be touched
by demurrer, talk 220. 7 Mod 97, 5 Mod 45
Mills 410, Contra Howard 93 - for demurrer
only touches ^{the} Pleadings

If can't plead in abate but once, if the
court overrules it at an end, & he must come to
trial. Stoh 126, 2 Lord 40 Fort Blair
introduction 5.

But if Dft amends his writ then the Dft
may repeat his abatement, for this is a
new writ. Perly 40

is a rule of Com law, after gen imparlance
I can't abate unless the cause ^{of abatement} arises
after the imparlance
2 B Com 36, 1 Bar 9, ^{as} new 30

To the action

The same rule obtain after the proper
time of plea in abate i.e. in Eng 4 days
has expired. Don't forget that Stat § 18.

In Con, only 2 days are allowed for abate-
ment. Root 564. Statute 322. This rule don't
obtain if the law continues a cause
Laws 173, 175. Fast Plain 297

Child practice 777

Pleas to the actions

General Issues

This is a single, certain point, issuing
out of the allegations of the parties & con-
taining an affirmation & negation
1st Ed 1564. Com Di Plead B

When the Court have arrived at this
point all pleadings are then at an
end

There must & always be a direct affir

Is the Action
positive & negative, this is the old rule
the modern one is something gratified

Two Affirmations or two Negatives
will never make an issue —

1 Inst 126 A, 1 Vent 213, 2 B Rep 1312, 3 B Rep 278

The language and style of Pleading
is the most perfect of all language
& the most precise & certain

1507 A dead & that he is alive is no
issue, for the argumentation, but that
it was born in Eng & that he was born
in France is an issue —

The rule is rigorous, but some times
must be relaxed & this time is proper &
simply, to then best to adhere to it
else there will be ^{no} end of innovation
1 Kebon 6, Strange 1177, Proctor's entry, 50d

One exception in the writ of right but
is not generally called an issue

2 B Rep 5, 2 St 1177

or
To the action
if in fact are either Special or
General Law 110, 4 Bar 54

A general issue is a denial of all those
allegation in the deed the Plaintiff must
prove to support the deed

A special issue is a denial of a part
of the deed, 1 inst 126 et. 4 Bar 54, Laws 112, 13
145

Is action founded on misfeasance or
positive wrong, not guilty is the issue

Is debt on simple contract nil debet
to little on specialty - non est factum

Is the action of account - never bailiff

Is debt against a Receiver, never Receiver

Is Assumpsit non assumpsit

Is Warranty - not warranty

Is Deceit - no Deceit, no wrong

BB 305, 6 Clin 257, 4 Bar 54, 2 East 446

3 Mod 321, 2 Bar 1500

of To the action, Gen Yuen
is debt on personal contract, not guilty
is ^{the} proper plea, this nil debet will answer
17 Feb 1822 C.E. 247.

Not guilty was an issue to open but
because taken then considered a trick ap —
and now this issue will be aided by us?
dit 2 St 1022 20. 21 167. 1 Linn 142

Nothing in arrear is good issue in act
for rent, ^{in arrear} nil debet is good too, either
will answer

But to action on covenant for rent, the
thing demanded is only damages, and
nothing in arrear won't be an issue,
but non est factum —
Caut 588

But if to debt on bond the issue be nil
debet & P.C. don't demur. Th. J. may con-
sider it as a debt on simple contract —
5 Cop. Pre 28

The Gen issue concludes to the Country
too does all issue of fact, this is not
universal, for sometimes the fact is to

No other action Gen Issue
is made by other means than a jury
300 Com 330

the issue of fact by record is to be tried when
the issue is not ^{trial} record by record, and the
it closes with a verification

2 West 243 Law 148, 2 Wils
113, 114, Law 226 & 2058 Paul 411,

In Can any issue ^{of fact} in civil cause if the
Parties agree may be tried by the Ct. as always
in Justice Courts. So Can the action civil

of Com Law - all facts are tried by ^{in Court} the Ct
and through the jury after or after by re-
cord & certificate of marriage, so that where
there is no verdict there is no trial, the
true theory of the law is the Ct tries all
facts -

In criminal trials if the jury do not agree
another jury may be impaneled, but
if ^{one} a jury tries a fact, then a criminal
may be tried twice, this point of calling
a new jury has been settled in Can & England

Is the action - similitur - per ipse

If the traverser of fact comes from Eng. he ends
with, "if this he puts himself upon the count
for trial", "if from Eng., that the fact
may be enquired of by the Country."

The issue is joined by adding the similitur.
3 B Com 314, 1 Inst 125 b, Law 317,

When in bar, ^{what} issue is tried by the Court, the
jury, "and by agreement" &c.

The word of similitur in Eng is not
aided by verdict, but this is an incon-
venient rule, But in Lon. this word
is aided by verdict - and this is right
law, for the similitur is more matter of
form no part of the Pleading.

1064, Com 467, 1 Saund 109 n, 2 Day

392

The similitur in Eng is considered as matter
of substance but in Lon a matter of form.

The similitur or protesis is only evidence of
the consent of the Parties to the trial of
the fact

- Gen. 1st Floor

is in line if the agreement or consent of the parties appears in pleading &c. the fault of omission is remedied -

When an issue is well tendered it must be accepted 3 B & 314, 1 Inst 126 Ct. 1 Barne 338. Comber 86, Bar 1288

The words in manner & form are always used in issue in fact, sometimes. Then words are of the substance of the issue sometimes not -

If then words are of the substance, when ^{a collateral point arising out of the} if they go to the point of the action,

But if the words go only to the point of action, the words are only matter of form, not so when the issue is upon a collateral point, or matter

Litt text 488, 1 Inst 281 B. 4 Bar 50

This is the rule of the books, but Gant gives this as better - viz: If the words & form or manner of form are material, they are of the substance, if not then of form, as if the

Laws 49, 120, 1 Inst 17, 2 Barne 319, note
action manner & words are to be traversed they are material of substance, if they are not to be traversed, they are immaterial

Gen Issue -

An immaterial issue is one on a point
that does not decide the merits of the cause, as if
on a matter of surplusage - and such an
issue is not gen aided by verdict, but an
issue is material often or it is such one gets
parties & immaterial or to the other

2 Lawd 319 note C, 1 Bos 103, 3 B & B

345. 10th 371. 10th 32. 6 Ells 227 2 Nov 187

A gen demurrer will not reach a negative
pregnant 1 Inst 126, 303, 5 Bar 204, 6 T 87. There is
a good case in the 2 Burrows 244, I think, Law 114

A gen issue is sometimes proper where an
immaterial part of the deal is intended to
be denied, as where the person making
the contract wants to show the Ct, that
he was wholly incapacitated to make
the contract, for he considered that she
never made the contract

1 Bos Cont 97, 10th 78, 2 B & B

1082. 2 B & W 745. Gill v. 102, 6 Nov 311

General Issue

But if the contract be void only in its
own nature, not from the invalidity of it
this must be pleaded specially, not by gen
issue

If the contract be voidable only this
is not proper issue. The gen issue
can be pleaded only where the contract
is void

2 B & C 292, 104 Li 223, 124 Dig 223

10 Coke 119, Plowd 66, Gill v. Laid 162, 2 B & C 180
1046 675, 1049

From the incapacity of the party absolute
the law considers the contract as never
made & a gen issue here & here only is
proper plea.

If a specialty is made void by it, this can
only be specially pleaded & not in evidence
as in a gen issue & this because the evi-
dence would not support the defense.

10 Coke 119, 124, 172, Gill v. Laid 163, 2 B & C 180
1046, 124 Dig 223, 4

Gen. Issue

"In the one only accident but is otherwise
destroyed, by ransom & advantage may be
taken of it under gen. issue non est factum

1 Heke 119² 2, 11 H. 272 E. 22 22, 3, 4

It is in gen. matter of fact only & not of
law or in issue under non est factum

Matters of fact are the allegation in the
deed, but matters of law something
going to the avoidance of the deed
E. 22 22

At Com. law, any thing is gen. that
shows in a person at the time of the
time of committing his act, had no
right of action, may be given under
gen. issue - or insanity, infancy,
release, & negligence

At 498, But N. 512 Salk 149,

1 H. 142, 2 Bur 1010, 3 L. 1352, Long 108

2 H. 36 143. 1. No 2. 18 this case is overruled

Gen. Issue

But don't these authors acknowledge
the thing dictated, This rule is good in
limited assumption not, for here the law
will not raise any promise, but
in a prop. opinion not Galt, says this
rule ought not to be applied, the tri-
vial law it may

But under, of limitation must
be placed specially, for they do not
deny there was some a case of action

Value & payment & transfer the origi-
nal duty, but of limitation, as
and what another the original duty
may be given in own issue

^{on 1st}
Chilly 198, 2d Dig 147, 3 B an 113

1 pound 203, note

1 L Ray, may allow & satisfaction be
given under gen issue. Galt it may not

Gen. Issue

But whatever admission leaves a duty, one
& does not disprove that duty, now, must be
pleaded specially

In debt on simple contract, st of lisi-
station or relief may be given under
gen issue - for here ~~it~~ ^{it} owes nothing

L Ray 506, Salt 278, 506 & 18
Camp 588, 1 Saund 283

In a promissory note, gen. the true
criterion to determine what may be
given under gen issue, is if the evi-
dence coincides with the plea, in so
far as it is material

In assumpsit, st of frauds may be
given under gen issue, but this genly
objecting to the parole evidence

1 B Cham 92, 2 Swift 214

The law of pleading in assumpsit
is not allowed in any other action

Release in tort must be pleaded specially
and so must a license, for gen issue would

Ex. 100. 2nd 111
during the trial

4 Barba B. 111, 1st 282, 2nd 111
174, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

And so the universal what can be
pleaded specially may be pleaded under
an issue, so what can be pleaded under
an issue may be specially, for also
here is a defense that can be pleaded

Law 111

In Con. by 1st

It may plead any defense under gen
issue, except an act of the Pety acquitting
or exonerating
That Con. tit Pleading

And that it excepts those acts of the Pety
prior to the right of action, which, however
2nd 111 2nd 111
the right of action never occurred

2nd 111 2nd 111

In Con. of affirmation is good evidence
under gen issue in arts

2nd 111 2nd 111, unimpaired

Special Plea

A special plea the amounting to the
gen issue is good if it contains ^{sub} matter of
justification, the rule being that justifi-
cation is 3 Levin 21, 2 Ellis 268, 20th 23, 318
always to be pleaded specially

So, in the discretion of the Ct to allow
a special plea, when it amounts to gen
issue, or when the gen issue would perplex
the jury 2 Ellis 871, 2 Alder 271, 3 Alder 66
4 Bar 62, 3, 11th 127

Special pleading when not warranted
in good cases of special disclaimer (Pr
is not correct) ^{practised} 10 Cal 95 & Bar 202, 262 112

117, for

The Ct are requested to force the D to a gen
issue 11th 127, 5 Bar 201, 2, 27 165, 2 Alder

274, 5 Vet 18, 17m 303 & 2 Day 431 / 20 Bar 134

10 Cal 94 * Testimon 206 in case what it is to be done
if D D must plead gen issue

Special pleas in Bar

In this place the facts of the case are admitted but by special matter avoided

~~Text~~ — 4 Bar 2. Laws 378 115 129

Pleas in estoppel don't admit & avoid
nor deny the allegation in the case
but ^{they are} the pleas in bar — They only show
that he is precluded from alleging
what he has alleged

Laws 78 130, 140, 158 161, 170 Will

17, 3 East 346, 3 B Com 318

It is not universally true that special
pleas in bar confess the facts it sometimes
traverses part of the case

Hob 164, 4 Bar 70, 95 Ellis 304 18. 2

Tent 79 Laws 116 118, 121 128

But does always admit all the travers-
able facts, that it don't traverse

Salk 91, 4 Bar 2, 13

Special Pleas

And always in pleading justification, the
fact is confessed at course

1 Saunders 28 notes 1, 4, 3, 3, 17, 18, 29, 30

Salts 394, Carth 280, Esp Dig 318, 1 Saunders 28 notes 1

A special plea in bar contain new mat.

It is in affirmative

200 Com 209

A plea always closes with a verification
for the pleadings must be kept open so
long as either party urges new matter

200 Com 209, 310, Laws 158, Com 67

2 Com 272, 2 Burr 1745, 2 Ashm 363 note. This
rule is universal in Com law but in Eng
a bar must not close even ~~with~~ to the
country Laws 145, 221, 222

It may plea an defense to one part of
the act & another to another and one
verification will answer for the whole

1 Saunders 338 notes 1, 3, 39, Salts 298, 312

Carth 43

All pleas admit what they do not
deny Morris 33, 394, 4 Bar 53

Special Pleas in bar

But if it begin as an answer to part of the decl
and does no more, the Ply makes a dis-
continuance i.e. of the decl & the defence - & the
Plaintiff cannot demur - 460b. 62. 1 Saund 28.
note 2.

But if the plea apparently answers only
part of the decl - but really answers the
whole decl - advantage may be taken by
demur - 460b. 62. 1 Saund 28. 2. Bos & Pul 427. Law 116
~~135, 136, 137, 138.~~ And the reason is the
plea is not properly pleaded & this fact
is sufficient.

All matters of aggravation are answered
by a plea that covers the gist of the action.
3 Wils 292, 1 Str 479. 336. 1 Wil. 28. 1 Saund
28 note 2. 1 H Bla 55.

Answer after verdict in setting forth particu-
larly in the replication what was con-
tained in the decl. 3 Os Com 311. 1 Bos 213.
Law 102. 226. 197. and this concludes wth the
avowment that these things are not jus-
tified by the plea. 1 Saund 299 note. Law 104. 5. 240.

Special Pleas

And this assignment can't be traversed,
but must be answered by gen. issue, for
now tis a new declaration

1 East 294, 1 Saunders 299, Law 165.
241, notes.

Gen. special pleading is often allowed to
avoid prolixity, tho' once every thing
was stated very specially.

12 C. 749, 916, 1 P. 303, 1 P. 15, 220
2 P. 246, 1 Saunders 117, notes 1, 2 P. 115, notes 4
Law 61, 62.

But I don't count special gen. performance if the
covenant be negative.

1 P. 303, 6 P. 591.

But pleading performance when the
covenant is negative is faultily in form
and advantage must be taken by special
averment.

1 P. 232

It is said not allege more than prima
facie is answer to the deed 2 P. 110, 2 P. 249
1 P. 1 Saunders 298 and this rule applies to all

Traverse—

the plea

Puting many in a material point
intricate the plea, but if the point is im-
material the only surplusage

1 Int 303, 2 East 332

It is the form of beginning & ending
special Pleas Vide

Laws 146, 145, 159, 161

A plea that says the Lf has no right of
action gen relates to the time of pleading
and not the commencement of the action
Long 108 or 112, 2? Rich 186, Laws 198, 9.

Traverse

This part is highly useful

This is a denial of some part or point
alleged in the Plea & always, the answer
an issue, 1 Int 282, Yell 195, Laws defini-
tion is incorrect

A gen traverse denies the whole, & a special
traverse part of what is asserted, saying no
regard to matter of aggravation, it is only

Traverse

The extent of the traverse that divides its na-
ture into 110, 17, 10, 12, 149.

The after said a traverse closes the issue—
but a ^{special} traverse concludes with a verification
and gen does not close the issue but only
traverses it. H 871, 4 Dec 67, 6 Bo 24, 2 Dec 32, 1 Samd
103 to 103.

Abuse for more words of denial, than
and technic and the English words are equally
good & more proper the not is etirical
new 119, 1 Samd 22, 4. Wch 439

A general traverse gen concludes to
the country & Gould thinks it ought also
ways to. But a special traverse never closes
the pleading & then ought not to close to
the country—show a gen traverse closes the
pleadings, authorities on both ways
2 Wch 1423, 2 Wch 113, 1 Gray 199, 2 Dec 1822, 1 Samd
173 to 103 4, 4. N Dec 364

Traverse

There is a mode of summing facts without
a technical traverse, viz the position assumed
A technical traverse begins with matter
of inducement and absque hoc

2d 871. 2 Saund 206 a, 7 a 2 Saund
103 L, 1 Burr 324 2 Burr 1022 2 11 Rep 304 d

A wrong ^{conclusion} of a traverse is by no means
matter of substance, but by it is more
matter of form

Gray 94, 6 Cr 104 or 119 1 Vent 200
1 Saund 103 L 2 Fel 190 notes

When an allegation is positively denied
a formal traverse is improper ~~not~~ 4 Burr 59

2d 871, 1 Vent 101. Gray 98, 2 Saund 100, 4 Burr 59
6 Cr 30. Laus 117, 18, 150, 1 Tr 253. 1 Saund 222 2 Fel
209 note 8. 3 B Com 310

A plea should never plead in issue what will
not support his action ⁱⁿ his defence, if he
brings it as he says, he must plea further
special matter 204 2 B Com 310. Laus 150. But this
has been moderated of late times

2d 1177, 1 Tr 6

And if it is
a traverse is not proper where the ^{1st} is complete
and, for no contradictory matter is urged here
C 9 221. 2. Mod 108 Laws 110. 2 Bar 76

And if it does conclude with traverse, its
made by special demurrer

1 Saund 16th note 2. 207. 2 note 4
8 Coke 24 B. 2 Ellis 161. 2 North 165. 2 Lath 4. Laws 129
1 Inst 126. 2 Bar 58. Laws 124.

The omission of a negation, traverse
is taken advantage of by special demurrer

1 Saund 103 & 2. Mod 60. 2 Saund 54
1 Leonard 42, 4,

And if
There cannot be a traverse upon
a traverse, i.e. if a traverse is tendered by one
of the parties, the other must accept of it
1 Inst 282. Hale 104. 2 Corb Dig. (Read
C 17)

But a traverse after a traverse is good, tho
the first traverse is good, but this last
traverse is upon another distinct point
than the first Hale 104,

Traverse

A new traverse can never be taken upon the same point Hal 102th

It is the rule that there can't be a traverse upon a traverse there are two exceptions

1st When the traverse is on an anomalous point
Hal 106, Haind 22 note

2nd If the traverse is taken on a point which is a traverse point, it is not a traverse.
Hal 106, Haind 22 note

3rd When in trespass, the defendant pleads a local justification in another county than where the trespass was committed, denying that he was guilty in the county where the trespass was committed.
Haind 22 note

Barham 101, 6 Eliz 99, 118, 66410

Haind 22 note

A party by joining in a traverse does of course admit any new matter as evidence.
Haind 22 note

A Prostitution is the exclusion of a conclusion.
Haind 22 note

Mr. Aldridge

But the party traversing the traverse, as-
sumes what he does deny
Salk. 95, 4 Bar 2. Laws 121, 2 Det 141, 1 Det 126. Lit. Off. sent 192, 3 B. Com. 311, 12
Plowd 276 C. Laws 141

The Protestation is no part of the Plea
Laws 142. 8 Dig. Plea 10

A traverse cannot be taken but upon a
material point. for all else wants be
wheless 4 Bar 75. 2. dauid 207^a 2. dauid 5. 2. 2
5. 6. he 241.

If an immaterial traverse be demur-
red to, it must be done specially
1 Bar 94. 5. 1. dauid 14. note 2. Det 207^a

A traverse can be taken only upon an issue
of fact, hence matters of law can never be
traversed, nothing can be traversed that does
not go to the gist of the action
6 Elix 241, 6 Com Dig Plea 14. Laws 145
141 B. 370, 413, 2 Det 182. 1. dauid 22, 3. 2 Det 119

Matting of mere conclusion can't be traversed
the year stands. traverse
Laws 147

Traverse

It is best however to plead yes. if in to this
part

That is the use of more inducement too
now as this sometimes necessary to prevent
negative pregnant.

Law 118.

That is when it is made by way of protes-
tation & so when the inducement & the tra-
verse go to different points

Law 118

For the inducement & a traverse must
be consist of if possible matter because
the traverse is only a conclusion from
the inducement it's when they go to the
same point 66 H 336, 2 Leon 302, 4 Bar 68

Generally the traverse negates the allega-
tion traversed, but never if it will answer as
a negative pregnant

Ho 293, 1 Leon 208, 9, 2 Lev 205

301^a, 319 note 5, Com Dig Pleas. B 5

But traversing this way is generally aided
by verdict, 2 Burghl. C 487, 312, 4 Bar 98

a travers is usually followed by the words
in mass et forma, then words are not
absolutely necessary
Law 120

Duplicity

a double plea consists of several distinct
subjects alleged to the whole to the same
part of the demand & requiring different
answers

1 Inst 363 b, 366a, 368b
1142, 1 South 186, 2 18, 1 South 336, 7—

The giving different answers to different
parts don't make duplicity 1 Inst 364^a
Laws 131, 3, but to the same part

Nor does this rule prevent each of several
J^{ts} making different answers for him-
self, tho' J^{ts} have liberty in a several
sense and neither of them is bound to
answer the demand of the other
Holt 76, Laws 132, 2 St 1142, 611

L Ray 1372, Com Dig tit Plea 82, Part 4 Plea
135.

Implicity is disallowed of from prolixity
and confusion

Plowd 194, 1 Vent 47, 8

Hence every plea must be single, simple
and confined to one single point i.e.
one single ground of defence. The single
point need not consist of one single fact
but the facts must lead to the same end

1 Burr 320, 2 Bb Rep 1128, 1 Bb 146, 1

3 Bb 142

There are a few cases which seem to convey
that the plea need not be single, but
there are no exceptions to this rule of
simplicity as in false imprisonment
the grounds of suspicion may be
numerous, but one traverse will cover
them all & all of them go to make but
one defence viz: suspicion.

Plowd 80, 4 is incorrect 2 Hawk

121, 6 Bb 134, 871, 900, 533, 4,

And where one fact alleged is a consequence
of another mentioned, these facts don't

make duplicity & here last 2. to make
the same answer
Sam Pleader 2. Plowd 140^a

1 Burr 320

And so several distinct counts in one
debt is not duplicity, but these counts
must require but one answer each
3 B Com 295

And more surplusage don't make the
pleading double 1 Pidge 195, 1 Hobb 661

Dyke 42 C

Duplicity in debt consists in unnecessary
joining distinct grounds of recovery
for the same thing C Charles 200 14, 1 Dent 365
6 Dig Pleader 633, abate 9 4 action 9, 1 Bray 406
2 Dent 198 / 6 Dig Pleader 633. 2 Dent 198. 222
Comburharts 297, 3 Salts 108, 1 Dent 114, 126
Laws 25. 7, then cast authorities relative to
a special bond

But this a plea that gives two answers to
the same point is double, the rule in
Engd is much altered by it, which allows
many answers Laws 278, 3 B Com 368

But in case of a ~~miss~~ with one defense
you show that he has another defense which
would have prevailed, he may plead it, but
Court don't like this practice so well as
that of Eng.

The statute of Ann 485 relates only to a decl
and the answer made to it

4 Bar 121, 8 Dig. Plaid Ca

Advantage can be taken of an amplify
only by special demurrer. The fault is
merely formal. Salk 219, 578. 2 Ray 332, 798
2 Will 219, 1 Salk 339, Laws 132

But if the opponent don't demur when he
may for an amplify, he must traverse all
the grounds or allegations

1 Dent 272, 4 Bar 119

But a misjoinder of actions & an amplify
requires great surety

a gen demur will reach a misjoinder of
actions

Salk 10, 2 Levins 99, 7 Ray 238, 1 Wils
74, 8 Coke 87, Corbar 333.

What is duplicate to what misjoinder of
actions

Profect and Proce

His gen rule, if one pleads & holds under a deed, he must bring it into Court or profer it must be made *Big Head C, Law 96, 5, 206*
appendix 22

And it is that the Ct may remain the deed *Big Head C* *Coke 38, 10 Feb 93, Hobbs 233.*

And if one pleads without ages, he waives his right to *T. C. Mod 28, 3 Balth 119.*

But profer is required only of a deed, so the rule does not apply to notes & bills of exchange
Chilly 185, Bambergy 243.

But if a right acquired by deed will pass by law without the deed, he is not required to make profer of it - thus the assignment of a lease out com law, but seems if the right will not pass without deed

Coke 38 2^d, 1 Bulstrode 119

1 dunn 9th 3 Wrep 156.

If however the right does pass without deed still if the party pleads & claims under

If, then he must make proof if required
but if he don't claim under the deed he is not
obliged to make ^{proof} of it. 6 L. Law 97, 6 Coke 38^a

But if a stranger pleads under the deed
when he need not, he is not obliged to
make proof, for too presumed he has not
the deed in his possession.

10 Coke 94, 1 Desv 394, 3 Henry 8

Plowd 149, 1 Saund 92

etd gen if one holds by operation of law
he need not make proof that he claims
under the deed, because too presumed he has
not the deed, as tenant in common

1 Inst 110 & Coke 75, Janhins 715

But tenant in common must show his due
for he has the deed 1 Inst 228^a 10 Coke 94

The Privies to deeds must make proof
of them i.e. where the original parts must
have come 10 Coke 92, 94, 1 Inst 267 317

And a record may be pleaded without
proof, for no individual has the public
records, not even in the Court, where the
record is Law 97, 6 Coke 252, 1 Inst 225

And so where the deed is destroyed by time
& accident, or casualty, if the party pleads
the reason, he need not make protest
5 Coke 74. 675. 37 Rep 151. 1 Will 16. 11108

2 H B 263. 10 Coke 92. 3. 1 Saund 6^e

And in this case the party makes protest
he must shew the deed or fail, but generally
the court will suffer an amendment
1 Will 16. 3. 11108
note 1 Saund 6^e

Where the deed is matter of inducement
protest need not be made

87 Rep 373. 10 Coke 92. 6 Coke 38^e

And in Car has been said that protest
not necessary, for here ayer may be demand
ed without protest
1 Root 566

In Eng now, omission of protest when
it should be made, is matter of form & is
waived by special answer
Hob 301. 6 Ellis 217. 4 Rep

119.

When the deed is lost, a copy of it or con-
vocal evidence is admitted to prove it

200, 201 & 202
contents, the copy must be shown to be the
original form must be proved to have existed
and the Ct must be probably satisfied that
the original deed is lost 10 Coughth Peab.
evidence 29, 30, Chittendon bill, 205, 6, L. Ray 731
10 Chinn 446, 1 East 347 7 Est 65, 8 Est 243.
11 3 cases in error 27, 2 Phares 267, 3 Johnson
206

as
the Ct can't be admitted to swear that
the deed is lost, he must prove the thing
a very thing else 204 1186 then case is no
exception

When the deed is in the hands of the ad-
verse, ¹⁰⁴⁵ a copy is good, but when the Ct should
have been requested to procure the ori-
ginal Peab. evid 165, 1 Est Dist 50, Chittendon
bill 206

When protest is made the other party may
or it need not have a copy of it out his own
expense 206 Com 299, Law 96, 406 217, 406 217

But where property is made when not necessary, the more superfluous, and the opponent is not entitled to any of the said

Salmon 497, 2 Miles 395, Tongue 470, 2

When a jury is sworn by the Court, the party
may enter the said verification on the record
so that if properly he may take advantage
by reason of variance

336 294, Laws 98, 9, 6 Nov 28

And if the poorly recites, over or the said gold
the other
he may deliver, or sign parchment for work
of a piece laws 100, 1 pound 9^{cu}, 716, 817, both 201
47 Pub 370

Departure

This is the description of a former design
for another distinct from the former

3036 210, Blau 7.105-

1 Inst 303, 2, 2 H Bl 280. L May 14 49, St 422.

& the case of Nathaniel & Fowler in Conn.
~~the same~~ ^{that}, is a leading case on this
subject. Gail doubts the truth of ^{the} ~~the~~ ^{of} ~~of~~ ^{on} ~~on~~

Departure

Lath 222, 6 Chas 115, 4 Bar 125, 6

A novel assignment in the replication
is no departure, this is only farther & plainer
3 B Com 341 B. 151 Pri 444 17

Laws 164, 5, 3 Wils 20

Advantage may be taken of departure
by gen demurrer, Faulk 2212, 7 Bay 22, 94
Hs 422, 6 Chl 165 or 228

But departure is aided by verdict

7 May 80, 12 Wils 110, 2 Saund 84.

177 107, because enough appears on the re-
cord to entitle the party to judgment

Demurrer

This is a denial of a legal sufficiency of
the allegations demurred to

Had not such facts as are well pleaded
to avow their sufficiency in law; & thus
must decide

Hals 290 Saund 338 note 3

Com Dig Chas 25 3 B 6 312

15
A demurrer always assumes only a legal proposition, and admits only those facts well pleaded

A demurrer is only an excuse not to plead and not really a plea

2 B Com appendix 294.

2 Wils 292.

A demurrer may be taken to any part of the pleadings

1 Vent 32^a & Mod 132.

At Com Law, a demurrer admits only those facts rightly pleaded in point of form, but by it it confesses all facts thus informally ^{pleaded} that are aided by the statute for by these statutes the informality does not test. Statute of 27 Edw 3. 5 or some relate to this subject 1 Wils 248, Habb 191, Faulk 218 Habb 50, 1 Saunders 280, 6 Li Plea 23

Why does a demurrer confess facts informally pleaded, because the informality is ground of demurrer

1 B Com 11

A demurrer never confesses what has been
proved before to be false, Thus what is against
the record

Shewin 124, 802 25 or 31 Law 108

An avowment of a physical & natural
impossibility is not confessed by demurrer
for this is good ground of demurrer

Shewin 10, 802 26

So neither facts avowed, that cant be
proved legally are confessed by demurrer
Yell 192

6 Coke 44th 2 Will 376

So it never confesses facts not material
& pertinent, for then one not proper
subject of denial or confession

Sauth 501, Law 108, 4 Bac 191

So neither does it confess conclusions
of law

Hobart 50, 40 Bac 191

But if you in fact in joined there is no
further demurrer

6 Dig Bea 26

a dem is often called an issue in law but
a demurrer only tenders an issue in law

20 Com 313, 315

If there is an issue in fact & a demurrer
in the same cause, the demurrer must
be first determined else there must be
two juries, this is only a discretionary
rule

Palmer 519, 1 Inst 72, 125th

And ^{on the part} if a demurrer is decided for the Plt he
may enter ~~not~~ ^{prosequi} or to the issue
in fact & have damages for the demurrer

Sault 219, 125th

There can't be a demurrer to a demurrer
to a mere discontinuance

L Ray 20, Sault 219. Laws 172, Com 6
306 contra

Is a general rule where one party demurs
the other party must join

This is as in Eng to conclude the dem with
a verification, but this is useless Laws 172

Thompson 23, 5 ~~Ed~~ 132

In civil cases, judgment on demurrer is a person
taking guard, except in dilatory pleas
in criminal cases most of felony

In 306, 6 Ellis 196, 2 Hawk

114 116 Coke 50, 4 B & 334, 338, 2 Hawk 334

2 Hale P Brown 279, 8 Ellis 196 contra 2 Hale 243
115, 257

Demurrers are General & Special

1 Inst 72, ^{cc} Laws 167

When no particular cause of desert is assigned
in gen, but is special if the special defect
is mentioned 1 Inst 172, 4 Bar 132.

Law is incorrect in his origin of demurrers

Historically all demurrers were special

Laws 167, 8, Hale 22

1 Vent 220, 1 Saunders 337^e

The cause in special desert must be assigned
specially or particularly 1 Phil 219, 1 Shown
242, Comber 297, 2 Gray 798

Demuror
you may always demur, specially but
is not the safest way

2 Bulstrode 67

A special demur reaches all defects, but
a gen demur will & many it will not

All substantial defects are reached
by gen & special demur - but defects in
form by it are reached only by special
demurres 1 Inst 172^a Hale 127, 164, 232, 3,
Salk 291, 4624

By com law, gen demur would reach
matters of ^{fact} 6 Dig Plea 2 5, 6, 109, 4 Bar 133, 4, 135

Gen demur, will answer in appt, indentments
presentments actions on popular or personal
statutes 6 Dig Plea 2 7

In all pleadings two things are necessary
that the matter alleged be sufficient & in
legal form 1 Inst 313, 4 Bar 2, Hale 164

The word either of these is cause of demur
for the first gen demur, for the second only special
demur Hale 232, 7 Mod 71 2 L Bar 7, 802

matter of substance is what supports the
very right of action - self - but informality
in statement is matter of form

Hol 233, 2 & Bos 2, 119, 134, 20 Proctor

Where there is total want of substance,
gen demur is good, so were omission of any
material allegation

Hill 133, 108, 232, 301, 1st Int 74^a

Corth 389, 3 Bos 344, 1 Decr 184

And if one of the parties pleads what ~~it~~ appears
to be estopped from pleading, gen demur
is good Laws 176, Mills 13, Laws 38, 140, 145

158, 101

A special demur reaches no other formal
defects, but are specially assigned for demur.
Hence the demur is general

10 Coke 88, 4 Bos 132,

If on demur judgment is given for ~~the~~ no
future similar ^{or concurrent} action will lie on this same
ground for there must be an end of litigation

But if P^{ty} fails for some reason because he o-
mitted an important allegation & in
the second action this is made, this is
a new & a new & the old judgment is no
bar 14 Vinor 610, 6 Mod 20, 4 Bac 110

And if the first action was misconceived
a second will lie notwithstanding the
old judgment, for these actions are not con-
current 6 Coke 7, 7 Phil 240, 6 Chl 35 3 Wils 304
2 B. Rep 774 827 631 6 Eld 678

And so in case of pleas of bar

6 Coke 7 6 Chl 508

But to this rule there is an exception in
real pro p^{ty} for if one action fails another
of an higher nature will lie, but this does
not in bar for 6 Coke 7 we have but
one real action & that is really mixed & is

But if the D^f takes no notice of the defect
and pleads in bar, & the action is found
for the D^f, the P^{ty} can't have any new
action, for the decision is really true
Shinner 120, 6 Mod 207, and so if the plea in
bar is demurré

When a party demurs to a part only, the demur
must be consistent with the rest not otherwise
anwered Hils 481, Laws 1956, 1619.

demur reaches back through the whole &
& attaches to the first error

Hol 16, 199, 200. 3 Coke 52 & 9 Coke 110
L Ray 1080 Shult 258 546, 6 Dig Pleas E 37.

But in debt on bond if the 8th plea in bar is
insufficient & the 9th in mitigation
signs no breach the case shall go for the
debt 3 Coke 52, 8 Dig 120 E, 133 E Palmer 287, 2 Breton
44 C 7 133 221, L Ray 1080

Demurres to Evidence

This is a critical & difficult subject
where issue in bar is taken, one of the party
may demur to the evidence to rebut
that point

1 Inst 12, B & the Pri 315, L Ray
404, 4, Bac 150

But the party thus demurring, must do
it without stating in our evidence

Brout 170

Demurrers to Evidence

And the demurr must be taken to all the evidence given

The admissibility of evidence is always a question of law Toulg 360, 2 H B 205, the case in Langley's Company

Evidence is always relevant if it conduces at all to the issue joined
2 H B 205

A demurrer to evidence puts an end to the question of fact and admits the facts but denies their sufficiency in the law

2 H B 205, G. 4 Bar 135

There has been much doubt when evidence may be demurred to

It was always settled that if the evidence be in writing, it may be demurred to

5 Bohn 114, 1 Inst 74, 6 Elix 751, 2

3 B Bohn 372

And here I observe one for all when it is proper to demur to the evidence. The other party must join in the demurrer or waive the evidence, and then whether the evidence be in writing or parole, but parole even
shears 87

5 Bohn 114, 6 Elix 751, 2

And one come under this rule

It is clearly settled that if the evidence be parole, yet if the party agree to the demand there is no objection

And so if one party brings evidence to a definite fact & the other party admits it then he can oblige the other to join in the demand or waive the evidence
Allen B 2 H B & 200

And so now it is settled that if the parole evidence of a fact is certain & acknowledged he can oblige the other to a demurrer or a waiver
2 H B 200

When there is a demurrer there must be a formal acknowledgment of the fact

And so if the parole evidence is indeterminate, the party can't demur without admitting it to be determinate & certain
5 Coke 102, 2 H B 207, B N Br 213

And so if the evidence is circumstantial

the party that does so must admit
on the record every thing the jury
could infer from this evidence, every
thing to which the evidence is relevant

This circumstantial evidence relates only
to a subordinate fact from which the
great fact is inferred and will be ad-
missible to remove the circumstantial evi-
dence (the sometimes will be sufficient,
for then the ultimate fact will be admitted

Lang 114, 127 & 129, 2 H B 209

219, Allen 18, B & N 313, Stiles 22 & 30

In these cases if the party does not make these
concessions, the other party need not
sue, but if he does the Ct can't give any
direction

B & N 313, 4 Bar 135, 2 H B 209

Then reliable evidence may always be
admitted to, but under the foregoing
regulations

Thirly 352

The whole proceeding in demurring is cor.
is under the direction of the Ct, but in de-
murring to Pleas, the Ct cor. do nothing

2 Rolle Rep 117. 2 H Bl 208.9

The party demurring to evidence must
state all the evidence & his repley admit
it on the record, and then concludes that
from the insufficiency of these facts, the
jury may be discharged & he have judgment

Bulc. R. 1. P 314. 2 H Bl 200

Arrest of Judgment & the
pleader

It arrests the process is to stop or stay
this process on motion, entered to writ
tong, entered on record

It usually had after verdict is found
on issue in fact, tho' this not universal

2 Bur go, Long 2. 8 2 13

2 H 1271.

Judgment is arrested only for intrinsic
cause such as appears on the deed, accord-
ing to the common law - as where the
writ & deed differ, for the writ is the founda-
tion of all the proceedings
3 B Com 393

Where the verdict differs from the issue
in such a case the real issue is not deter-
mined
3 B Com 393

If the deed is wholly insufficient
3 B Com 393

If issue is taken on the 4th plea is rad-
ically defective, & the verdict is for the 4th
plea may arrest judgment C. E. l. 478, 3 B Com 395

General rule arrest of judgment after
verdict may ^{always} be had, where after verdict
judgment a writ of error will lie

2 B Com 77, 2 Roll 716

The principle gives room debate to the
effect of Pleas

Question What defect in the plea will
authorize an arrest of judgment

If the statement of the plea title is
defective & that only is defective, verdict
will aid the error in the title

But if no title ^{only} or a defective one is shown
or stated, verdict will not avail in arrest

Where the defect is in the cause of action

verdict will not avail, but if the state-
ment only is defective, verdict will remain

Douglas 688 Rusk v. Tolson

3 B 694, 1 Dcr 184. 6 Hig Plea 687 Salk 365

Camp 825, 3 Kie Br 320

And this same distinction applies to the
plea as to the plea title, thus if the title
is defective only in form, verdict will
remain it

3 B 635, 6 Q Cr 775, 1 Wils 125, 1 H 1472

1 H 1510, 3 Burr 1728

6 There are other general rules

There is not a general error would ^{not} ~~be~~ ^{be} aided by verdict, but *vice versa* is not true
Hutton 54, 5 Bar 317, 10 Chas 301
2 Wils 375

After a general verdict, the Court will presume what was not alleged but followed from what was, was proved to the jury

But this is the last rule every thing necessary to be proved to answer the issue, ^{if found} will be presumed proved after verdict

2 Wils 487, 10 Chas 389, 1 Wils 508.

But see 1 Wils 221, 10 Chas 658, 1 Wils 172, 10 Chas 827

The principle on which verdicts aid errors in presumption, because a verdict supplies all the deficiencies in form or all the deficiencies apparent on the record

But nothing can be presumed after verdict but what is proved or arises from what has been proved

3 Bar 172 B, 2 Wils 810, 1 Wils 17

1 Wils 523, 2 Wils 487

If any one material fact is omitted, the proof

Arrest of judgment
of which doubt appears from what has
been proven, verdict will not avenge the
fault, for here is substance & it does not
bear to have been ^{proved} ~~proved~~

Bul At B 321, 17 Rep 645, 8 Cr
1278, 7 De 125, 2 H Bl 574, 4 Wren 472

Nothing may be implied that ^{unproven} ~~unproven~~ arises
from what has been proven, but matters of
form, of statement merely after verdict
will be presumed, for this will always follow

3 Salk 662, 72 3 Salk 12, Long 654

^{after verdict}
The Ct can presume any fact omitted, that
is necessary in point of law

1 Vent 27, 77 Rep 351

Arrest of judgment after default is the
same in effect as gen demurrer

2 Bur 904 2 St 124, 1 Mil 171

In some cases judgment can be corrected for
the greatest defects tho nothing is averse
by verdict

Is on his next
to where the first radical error, who
moves in arrest

Repleader

When an impleader for the 8th & 9th
covers on an immaterial issue which part
is really entitled to a recovery, judgment
is generally arrested & a repleader awarded

2 Burr 944, 3 B Com 395, 2 Kent 196
Str 994, 1 Burr 301, 10 Mod 1030, 1 Ray 1, 8 L. Rep
707, Laws 175, 4, Bac 127.

An issue is never immaterial if it be
the best that could be found, and if a re-
pleader is there awarded, the party cont-
does any better, of course the cause must
at first go against him, or judgment
may be arrested after verdict

1 Cur 301, 8 Coke 120, 133, Str 394
Hob 150, 100,

In a repleader ^{against} the pleading begins de novo
and at that stage commence wherever the
first error was made - and repleader is
granted only by way of indulgence

303 C 395, Salk 173, 2 W 579

2 Ray 450, Lamb 511, 1st Ad 2

but a repleader is never awarded to the
party who caused the immaterial issue
Laws 180, Boup 511, 1st Black 544, 2 Sum 319
in Pitts Repleader 524

Repleader

It is now material if found one
material if found the other

2 Bar 444, 4 M.C. 173, 1 Bar 55.

If a jury after finding a fact make a co-
clusion, the Ct does regard the conclusion,
but look only to the fact

11 Bar 10, 2 Cr. 355, Hal 50, 50

A replender is never awarded after a
discovery, but only after issue of fact, for
after a discovery, issue in law can't be im-
material, the issue of fact may be

5 Bar Popham 42, Hatch 148, 6 M.C.
152, contra 3 Levin 26, 440

If a replender is awarded when it should
be & vice versa, the error is -

Chester v. Chester & Co. 4 Barb
1 Day 305, 11, 10th 529, 5 M.C. 24

If a replender is given after a verdict or dis-
covery, for it has not pleaded at all

10th 529 6 M.C. 3 Com. 132 3

A replender is ^{usually} not awarded after verdict

For award of a new trial 1 Bar 90

Defective Verdict

103, 3 Phill 664, 1. Mod 2 60. 12 311 Salk 539

Amples is never awarded after entry of
verdict, for the judgment then is rendered

2 Saund 519, 2 Levis 120. 6 Mod 102

But judgment is sometimes awarded ^{for}
defects in the verdict as if any material
point is not determined by the jury

6 Ellis 133, 1 P. T 227, 1 Ray 152

Stronge 1189, 482 3 Leond 82, 1 East 111 2 Burr
1243, 11 Bohn 557

And if the jury find the substance but say the
amount however informal

1 P. T 27, 12 Mod 5, 1 P. T 227

A verdict is not vitiated by finding more
than the issue, for more work is done

8 James 407, 8 Bohn 12 2 Phill 419 417

5 Bar 247

But then the verdict must not vary from
the issue in necessary substance, as
it now is yet 2 Phill 307 319 2 Vent 151

- Legation Petite in the case
 of Thom has a great cost two counts
and are lost the verdict is for the defendant
on and a verdict of no must be given for
for the defendant and divides damages

116 Coke 130. B. Hill Pie & 2 Hils 377. F. P. 187
518, 512 Apr 1094, 2 Hils 318, Banta dismisses in
the case would be overruled and D. 187
could recover 3 L May 13

Def. the jury seven damages where they cost
 equally erroneous. The Day was called a not
 1892. & Dec 8, 1160 to 5, 7, Carth 19, 13 Dec
 46, with Dec 321 120, 537, 4513, 415, 114 in 134

Then a jury bring in an illegal verdict
a writ ^{de novo} de novo issues & no repliader, for the
jury is supposed to be correct
Aug 30th, & 7 Pth 504

Bar judgment is arrested for many reasons. Firstly 13, 133, 184, as if the jury are corrupt or prejudiced, a die, & Bar 291, 542. In Long there would be grounds for new trial, but here of new trial or arrest of judgment, & so if the jury have been illegally influenced & Bar 292. If none of the jurors is in any way interested, judgment may be arrested. Firstly 184, 279.

Defective Verdict

If a juror has before been an arbitrator
attorney, former juror or given his opinion
on the same subject & issue, judgment may be
arrested Thirly 161

And this a good rule in case if the incompetency
of the juror is ground of praisable
Thirly 13, 133, 184
shall not, judgment may be arrested

The want of feithold on any thing that don't
work a partiality is good before verdict but
after verdict don't arrest judgment
Thirly 184

But if the party knows the incompetency of
the juror & don't before verdict make his
challenge, he waives his right & cannot arrest
judgment

Thirly 186, & Swift 232

And if the juror sits on the same cause
in the inferior Ct, it appears on the record
& the party don't object, to this juror judgment
cannot be arrested but sees if the record
don't appear, for then the party is not entitled
to know of the cause that may work a
partiality in the juror

Verdict

So a ^{prima} ~~prima~~ opinion previous on the point
of issue is no cause of challenge or arrest of
judgment, for here the opinion previous has
no relation to its issue now determined —
indeed all men have their own opinions
on this subject, ^{or not}
Daly 420

And so if an opinion previous on the very
case, it don't operate upon the verdict
is of no use, as if the juror has forgot that he
gave ^{him} ~~him~~ ^{Daly 62, 2 Swift 232, Daly 61, 87, 42}
an opinion ^{Daly 273, 7, 2 Swift 201}

In extrinsic causes of arrest of judgment in
law gets to show ^{non est} the impartiality in the trial
and in these cases Swift says the incorrect
a replender is granted, but a replender is never
granted but when there has been an immate-
rial issue — here there would be a renewal
de novo 2 Swift 201, Proot 573, for the issue
was ^{not} ~~not~~ ^{properly} —
In long extrinsic causes only can be the
ground of arrest of judgment, but here of course
can avail, But Gail says, that in long judgments
is arrested as in law for extrinsic causes as
we understand them & Dal 238, 291, 292
2 Levin 205, 442, Bramley 51, Pinner 245, Dal 291

This then is not the usual course in Eng^d.
for a new trial is generally granted. The
judgment is arrested here, the defendant
from the English prisoner at all

On arrests of judgment, no costs are usually
allowed for the party might have recovered
and saved the expense of cost

Dirly 89, 1 Root 572, 3. Holt 579, 2. Ross 17, 1. 2. 3. 4.

And so the same rule holds if an arrest of judgment
the Ct. will hear the writ of error & allow the
sums due 1 Root 572.

And in Eng no costs are allowed, where the
issue in fact is tried by the Ct. for here the
effects are the same as in demurrer

In Eng motion of arrest must be made
within ^{the first} four days succeeding the term of
trial 3 B 639

But in Eng it must be made at the time
of the verdict & within 24 hours (London, 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845. 846. 847. 848. 849. 850. 851. 852. 853. 854. 855. 856. 857. 858. 859. 860. 861. 862. 863. 864. 865. 866. 867. 868. 869. 870. 871. 872. 873. 874. 875. 876. 877. 878. 879. 880. 881. 882. 883. 884. 885. 886. 887. 888. 889. 890. 891. 892. 893. 894. 895. 896. 897. 898. 899. 900. 901. 902. 903. 904. 905. 906. 907. 908. 909. 910. 911. 912. 913. 914. 915. 916. 917. 918. 919. 920. 921. 922. 923. 924. 925. 926. 927. 928. 929. 930. 931. 932. 933. 934. 935. 936. 937. 938. 939. 940. 941. 942. 943. 944. 945. 946. 947. 948. 949. 950. 951. 952. 953. 954. 955. 956. 957. 958. 959. 960. 961. 962. 963. 964. 965. 966. 967. 968. 969. 970. 971. 972. 973. 974. 975. 976. 977. 978. 979. 980. 981. 982. 983. 984. 985. 986. 987. 988. 989. 990. 991. 992. 993. 994. 995. 996. 997. 998. 999. 1000. 1001. 1002. 1003. 1004. 1005. 1006. 1007. 1008. 1009. 1010. 1011. 1012. 1013. 1014. 1015. 1016. 1017. 1018. 1019. 1020. 1021. 1022. 1023. 1024. 1025. 1026. 1027. 1028. 1029. 1030. 1031. 1032. 1033. 1034. 1035. 1036. 1037. 1038. 1039. 1040. 1041. 1042. 1043. 1044. 1045. 1046. 1047. 1048. 1049. 1050. 1051. 1052. 1053. 1054. 1055. 1056. 1057. 1058. 1059. 1060. 1061. 1062. 1063. 1064. 1065. 1066. 1067. 1068. 1069. 1070. 1071. 1072. 1073. 1074. 1075. 1076. 1077. 1078. 1079. 1080. 1081. 1082. 1083. 1084. 1085. 1086. 1087. 1088. 1089. 1090. 1091. 1092. 1093. 1094. 1095. 1096. 1097. 1098. 1099. 1100. 1101. 1102. 1103. 1104. 1105. 1106. 1107. 1108. 1109. 1110. 1111. 1112. 1113. 1114. 1115. 1116. 1117. 1118. 1119. 1120. 1121. 1122. 1123. 1124. 1125. 1126. 1127. 1128. 1129. 1130. 1131. 1132. 1133. 1134. 1135. 1136. 1137. 1138. 1139. 1140. 1141. 1142. 1143. 1144. 1145. 1146. 1147. 1148. 1149. 1150. 1151. 1152. 1153. 1154. 1155. 1156. 1157. 1158. 1159. 1160. 1161. 1162. 1163. 1164. 1165. 1166. 1167. 1168. 1169. 1170. 1171. 1172. 1173. 1174. 1175. 1176. 1177. 1178. 1179. 1180. 1181. 1182. 1183. 1184. 1185. 1186. 1187. 1188. 1189. 1190. 1191. 1192. 1193. 1194. 1195. 1196. 1197. 1198. 1199. 1200. 1201. 1202. 1203. 1204. 1205. 1206. 1207. 1208. 1209. 1210. 1211. 1212. 1213. 1214. 1215. 1216. 1217. 1218. 1219. 1220. 1221. 1222. 1223. 1224. 1225. 1226. 1227. 1228. 1229. 1230. 1231. 1232. 1233. 1234. 1235. 1236. 1237. 1238. 1239. 1240. 1241. 1242. 1243. 1244. 1245. 1246. 1247. 1248. 1249. 1250. 1251. 1252. 1253. 1254. 1255. 1256. 1257. 1258. 1259. 1260. 1261. 1262. 1263. 1264. 1265. 1266. 1267. 1268. 1269. 1270. 1271. 1272. 1273. 1274. 1275. 1276. 1277. 1278. 1279. 1280. 1281. 1282. 1283. 1284. 1285. 1286. 1287. 1288. 1289. 1290. 1291. 1292. 1293. 1294. 1295. 1296. 1297. 1298. 1299. 1300. 1301. 1302. 1303. 1304. 1305. 1306. 1307. 1308. 1309. 1310. 1311. 1312. 1313. 1314. 1315. 1316. 1317. 1318. 1319. 1320. 1321. 1322. 1323. 1324. 1325. 1326. 1327. 1328. 1329. 1330. 1331. 1332. 1333. 1334. 1335. 1336. 1337. 1338. 1339. 1340. 1341. 1342. 1343. 1344. 1345. 1346. 1347. 1348. 1349. 1350. 1351. 1352. 1353. 1354. 1355. 1356. 1357. 1358. 1359. 1360. 1361. 1362. 1363. 1364. 1365. 1366. 1367. 1368. 1369. 1370. 1371. 1372. 1373. 1374. 1375. 1376. 1377. 1378. 1379. 1380. 1381. 1382. 1383. 1384. 1385. 1386. 1387. 1388. 1389. 1390. 1391. 1392. 1393. 1394. 1395. 1396. 1397. 1398. 1399. 1400. 1401. 1402. 1403. 1404. 1405. 1406. 1407. 1408. 1409. 1410. 1411. 1412. 1413. 1414. 1415. 1416. 1417. 1418. 1419. 1420. 1421. 1422. 1423. 1424. 1425. 1426. 1427. 1428. 1429. 1430. 1431. 1432. 1433. 1434. 1435. 1436. 1437. 1438. 1439. 1440. 1441. 1442. 1443. 1444. 1445. 1446. 1447. 1448. 1449. 1450. 1451. 1452. 1453. 1454. 1455. 1456. 1457. 1458. 1459. 1460. 1461. 1462. 1463. 1464. 1465. 1466. 1467. 1468. 1469. 1470. 1471. 1472. 1473. 1474. 1475. 1476. 1477. 1478. 1479. 1480. 1481. 1482. 1483. 1484. 1485. 1486. 1487. 1488. 1489. 1490. 1491. 1492. 1493. 1494. 1495. 1496. 1497. 1498. 1499. 1500. 1501. 1502. 1503. 1504. 1505. 1506. 1507. 1508. 1509. 1510. 1511. 1512. 1513. 1514. 1515. 1516. 1517. 1518. 1519. 1520. 1521. 1522. 1523. 1524. 1525. 1526. 1527. 1528. 1529. 1530. 1531. 1532. 1533. 1534. 1535. 1536. 1537. 1538. 1539. 1540. 1541. 1542. 1543. 1544. 1545. 1546. 1547. 1548. 1549. 1550. 1551. 1552. 1553. 1554. 1555. 1556. 1557. 1558. 1559. 1560. 1561. 1562. 1563. 1564. 1565. 1566. 1567. 1568. 1569. 1570. 1571. 1572. 1573. 1574. 1575. 1576. 1577. 1578. 1579. 1580. 1581. 1582. 1583. 1584. 1585. 1586. 1587. 1588. 1589. 1590. 1591. 1592. 1593. 1594. 1595. 1596. 1597. 1598. 1599. 1600. 1601. 1602. 1603. 1604. 1605. 1606. 1607. 1608. 1609. 1610. 1611. 1612. 1613. 1614. 1615. 1616. 1617. 1618. 1619. 1620. 1621. 1622. 1623. 1624. 1625. 1626. 1627. 1628. 1629. 1630. 1631. 1632. 1633. 1634. 1635. 1636. 1637. 1638. 1639. 1640. 1641. 1642. 1643. 1644. 1645. 1646. 1647. 1648. 1649. 1650. 1651. 1652. 1653. 1654. 1655. 1656. 1657. 1658. 1659. 1660. 1661. 1662. 1663. 1664. 1665. 1666. 1667. 1668. 1669. 1670. 1671. 1672. 1673. 1674. 1675. 1676. 1677. 1678. 1679. 1680. 1681. 1682. 1683. 1684. 1685. 1686. 1687. 1688. 1689. 1690. 1691. 1692. 1693. 1694. 1695. 1696. 1697. 1698. 1699. 1700. 1701. 1702. 1703. 1704. 1705. 1706. 1707. 1708. 1709. 1710. 1711. 1712. 1713. 1714. 1715. 1716. 1717. 1718. 1719. 1720. 1721. 1722. 1723. 1724. 1725. 1726. 1727. 1728. 1729. 1730. 1731. 1732. 1733. 1734. 1735. 1736. 1737. 1738. 1739. 1740. 1741. 1742. 1743. 1744. 1745. 1746. 1747. 1748. 1749. 1750. 1751. 1752. 1753. 1754. 1755. 1756. 1757. 1758. 1759. 1760. 1761. 1762. 1763. 1764. 1765. 1766. 1767. 1768. 1769. 1770. 1771. 1772. 1773. 1774. 1775. 1776. 1777. 1778. 1779. 1780. 1781. 1782. 1783. 1784. 1785. 1786. 1787. 1788. 1789. 1790. 1791. 1792. 1793. 1794. 1795. 1796. 1797. 1798. 1799. 1800. 1801. 1802. 1803. 1804. 1805. 1806. 1807. 1808. 1809. 1810. 1811. 1812. 1813. 1814. 1815. 1816. 1817. 1818. 1819. 1820. 1821. 1822. 1823. 1824. 1825. 1826. 1827. 1828. 1829. 1830. 1831. 1832. 1833. 1834. 1835. 1836. 1837. 1838. 1839. 1840. 1841. 1842. 1843. 1844. 1845. 1846. 1847. 1848. 1849. 1850. 1851. 1852. 1853. 1854. 1855. 1856. 1857. 1858. 1859. 1860. 1861. 1862. 1863. 1864. 1865. 1866. 1867. 1868. 1869. 1870. 1871. 1872. 1873. 1874. 1875. 1876. 1877. 1878. 1879. 1880. 1881. 1882. 1883. 1884. 1885. 1886. 1887. 1888. 1889. 1890. 1891. 1892. 1893. 1894. 1895. 1896. 1897. 1898. 1899. 1900. 1901. 1902. 1903. 1904. 1905. 1906. 1907. 1908. 1909. 1910. 1911. 1912. 1913. 1914. 1915. 1916. 1917. 1918. 1919. 1920. 1921. 1922. 1923. 1924. 1925. 1926. 1927. 1928. 1929. 1930. 1931. 1932. 1933. 1934. 1935. 1936. 1937. 1938. 1939. 1940. 1941. 1942. 1943. 1944. 1945. 1946. 1947. 1948. 1949. 1950. 1951. 1952. 1953. 1954. 1955. 1956. 1957. 1958. 1959. 1960. 1961. 1962. 1963. 1964. 1965. 1966. 1967. 1968. 1969. 1970. 1971. 1972. 1973. 1974. 1975. 1976. 1977. 1978. 1979. 1980. 1981. 1982. 1983. 1984. 1985. 1986. 1987. 1988. 1989. 1990. 1991. 1992. 1993. 1994. 1995. 1996. 1997. 1998. 1999. 2000. 2001. 2002. 2003. 2004. 2005. 2006. 2007. 2008. 2009. 2010. 2011. 2012. 2013. 2014. 2015. 2016. 2017. 2018. 2019. 2020. 2021. 2022. 2023. 2024. 2025. 2026. 2027. 2028. 2029. 2030. 2031. 2032. 2033. 2034. 2035. 2036. 2037. 2038. 2039. 2040. 2041. 2042. 2043. 2044. 2045. 2046. 2047. 2048. 2049. 2050. 2051. 2052. 2053. 2054. 2055. 2056. 2057. 2058. 2059. 2060. 2061. 2062. 2063. 2064. 2065. 2066. 2067. 2068. 2069. 2070. 2071. 2072. 2073. 2074. 2075. 2076. 2077. 2078. 2079. 2080. 2081. 2082. 2083. 2084. 2085. 2086. 2087. 2088. 2089. 2090. 2091. 2092. 2093. 2094. 2095. 2096. 2097. 2098. 2099. 2100. 2101. 2102. 2103. 2104. 2105. 2106. 2107. 2108. 2109. 2110. 2111. 2112. 2113. 2114. 2115. 2116. 2117. 2118. 2119. 2120. 2121. 2122. 2123. 2124. 2125. 2126. 2127. 2128. 2129. 2130. 2131. 2132. 2133. 2134. 2135. 2136. 2137. 2138. 2139. 2140. 2141. 2142. 2143. 2144. 2145. 2146. 2147. 2148. 2149. 2150. 2151. 2152. 2153. 2154. 2155. 2156. 2157. 2158. 2159. 2160. 2161. 2162. 2163. 2164. 2165. 2166. 2167. 2168. 21

Writ of Error

A writ of error is a commission given to the judges of the S Court to examine the proceedings of the C Court on someone's complaint, the record must be examined.

There are errors in law & in fact for which this writ is granted - an error of fact is reviewed in the same Court, but not of law.
I now mean error in law -

This must appear on the record, for there are no witnesses in this Court, to what ~~it~~ appears on the record 2 Bar 187, 317, Yell 209

Comp
State 286

And whenever the material error is in the law, this writ will always lie, whether there have been any pleadings or not.
This writ will lie in default

There must always be a venue of the suit in the inferior Ct i.e. there must be judgment
West 255, 1 Hall 749, 3 Bar 199, 3 Phill 128,
Lalib 133, 12 D. fin 104,

When one don't abate in case the writ
is ~~iss~~ ^{is} ~~facto~~ ^{is} ~~aid~~, a writ of error will lie
on where the Ct had no jurisdiction

67 Rep 288, 2 Wils 284, 299, Borth

124

The object of a writ of error, is to restore
a man to his legal rights, this is the under-
lying principle, when they affirm judgment
they can do no more, but where a man
has lost his interest, the Court will
see a man gets his money & interest, a
man must have all he has lost & ^{just} ~~just~~
no more, he must be placed just where
he was before & lose nothing

In con this not at com hard, there must always
be a bond given in the case of a writ of error
2 Bar 210, 2 Wils 129, 17 Rep 288, this bond
is not for good behaviour or surety, of cost
it is only to secure what a man has lost
of money say that a Justice of the Court need
not sign a writ ^{of error} if he thinks it is only his
another, but this is not the case in all
writs, a Justice must sign if the party
wishes

The form of this writ is very simple, it merely, summons the ^{party} to appear & hear the certain proceedings in the Ct below, and you may assign a general or particular error which you say is manifest.

This writ will be a reversal as to what has been done, but only to what has ^{not} been done, The property must be valued & the money collected due. The judgment is not expended a reversal will prevent. 1, Bar 670, 684, 1 Kent 36, 2 H B 334, 4 Bar 687
A man's body is as good as cash —

The grant of a writ of error is nothing arbitrary and the same pleading may be admitted in the inferior Ct

In one case, a writ of Error was brought before the exchequer, then the Council, but lately the S Court of nine judges

Writ of Error

When a jury verdict is affirmed in a Ct
there is no new judgment or execution,
but only costs are awarded, - when the
judgment is affirmed the party goes
back to the old Ct ^{for execution} & requires nothing of the
Slt but costs 10 roll 374, 800, 000 m
509, 502, 3ell 47, 1 Salt 262, Berth 223

When a judgment is ^{not} affirmed, the Slt
(where is an) renders the judgment that
the inferior Ct ought to, and what they
cannot do, but wish to, they must remand
the cause back to the old Ct to have done
as often to op. p. damages, the Slt will
decide all they can without a jury & then
it must be sent back to a Ct where there
is a jury

Where the Slt have not jurisdiction, and
reverse the judgment of the inferior Ct, the
cause then stands without trial, for
this judgment that reverses is no trial
for the Slt have no jurisdiction, the
cause must go back, but where the

Writ of Error

If a court have jurisdiction their judgment is final, if it affirms, or if it reverses and it can then only award costs, but if it have not jurisdiction it can reverse the erroneous judgment and the cause stands untied & must go back to a Ct of jurisdiction a Ct of errors has jurisdiction only over errors and this it has always whether it has jurisdiction over the subject matter or not, if it has it is final, if not, it is not

A writ of error lies where a judgment is properly rendered, but the judgment is thought to be improper

Writs of Error lie from Ct of Chancery

Where a person has been taken on a judgment that is after reversed, that false imprisonment, for till it is reversed two good

1 Roll 274, 4 ell. 179, 3 Conn 111

Where judgment is reversed but the execution has been completed, the motion is to be indemnified, but a bond ^{you} ~~of~~ ~~the~~ ~~same~~ purchase

Writ of Habeas

is not obliged to receive the specific article or again ^{if sold at the port} pay for them, as he has only policy demands. Thus if there would be no sale at the port and where articles are sold in market about a bona fide purchaser will hold always.

2 Bar 281, 2 Yelk 108, ~~11 Mod 48~~ 11 Mod 48, 573, 3 Keb 189, 144 C. C. 112, 67 1. 41

Where law has been set off, and articles are taken in eligit, the specific article is awarded, tho' it is not so with articles sold at the port — A bona fide purchaser can hold against a reversal, only articles sale at the port here policy demands it this point is disputable.

But if the sheriff is not obliged to sell the article at the port, the article must be returned.

1 Bro 178, Bacon error, 8 Co 143
872, 78, Yelk 108, 179, C. 107.

Jurants may in port be affirmed
in port reversal.

Where an adult & minor are sued in an assault & battery, the minor is released, the adult is not, for he might have been sued alone.

been one ~~not~~ dependent on another
and this gives a question whether the
subsequent one is reversed or a misstatement
of the reversal of the first - "Paves the
current opinion that the subsequent
one is not reversed, but an avante ^{sequent} querela
is the remedy of the injured one -

The avante querela does not destroy this
subsequent judgment, but is only an
avoidance of it - and if money has
been paid, it may be recovered, when

Living 283, Pal 187
the prior judgment is reversed

If the last judgment is really reversed with
the first then an avante querela would not
be necessary

8 Coke 143, 1 Roll 777

Where the jury ^{sett} give more damages ~~more~~
than the party demands, this error, no-
less the surplus is discharged

11 Coke 115, Moore 281, Yell 45,

But this can never be case unless where
the damages are certain, or a note & interest

Writ of Error

But where the party alleges his own damages or where he brings trover, if the jury bring in more than is demanded this is not error, certainly where trover is brought where trespass would lie, but the trespass is something, but occurs where only trover will lie,

11 Coe 111, Moore 281, Yell 218

here the thing governs the damages & everything is waived but the value of the thing

Errors in fact

As where judgment goes against a feme covert, or infant, or a man being out of the state, these errors often appear on the record

33 Bar 1521

2 Det 198, 217, 218

228, 1 Cent 207, 1 Solth 400, 10th 12, 2, 179

This writ may be brought before the same Court, for error in fact, for then it may reverse all well as any other they were only in fact

11 May 59, 10th 1338 14639

Now cannot bring a writ of error on a fact & for law at the same time

Writ of Error

For the S Ct can't take the fact, But a writ
says the S Ct may decide the law & send back
the fact to a proper Ct — Often, a man
desires to a writ of a writ to deny the
fact —

This rule don't hold in all the states
in some of them, a writ may be brought
to put the law before the S Ct —

But this rule is not supported by the
eng authorities — This writ may be
brought, 1 Crook 301, 1 Sider 147, 1 West 257, 4 Gill 58
4 Cr 338

What appears upon record can't be
denied, by averment against the record
never — 2 Salk 202, 1 Levin 76, 6 Cr 568
4 Ab 264, 8 Cr 489

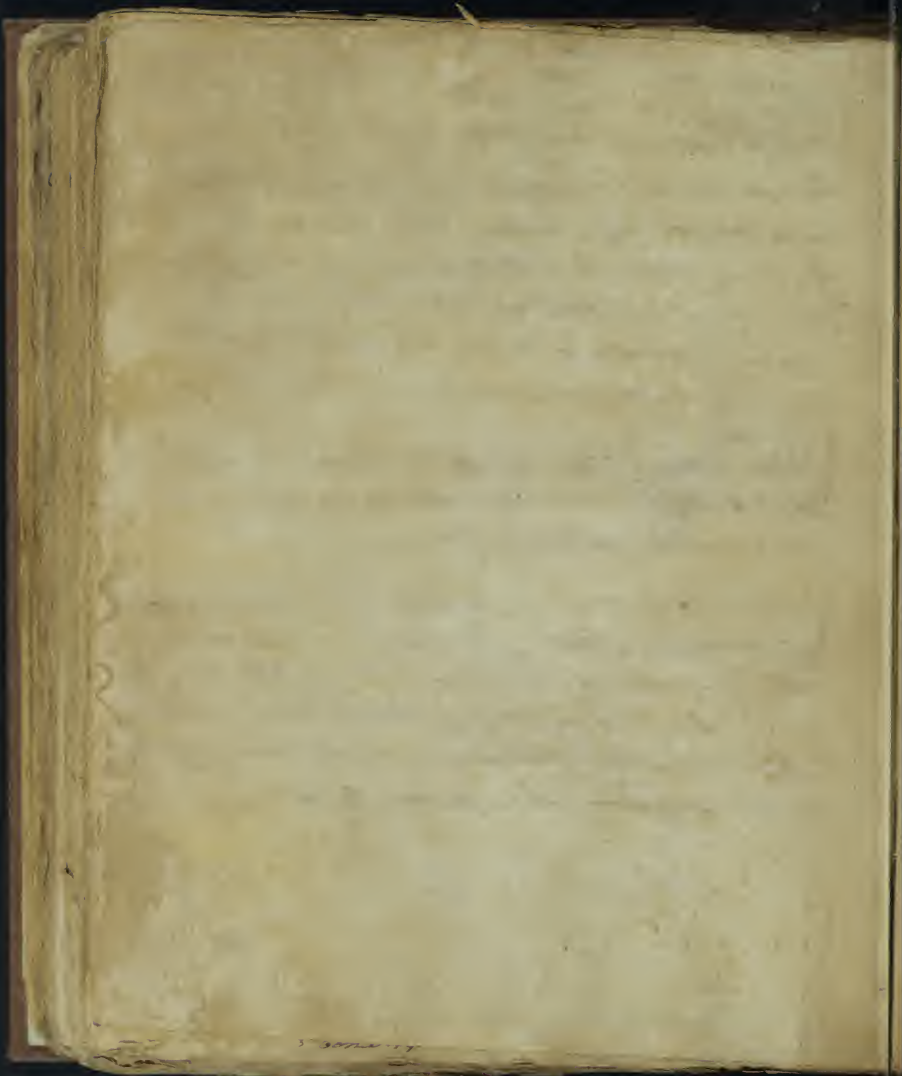
If judgment is rendered by one appointed
a justice, who has not taken the oath
in this judgment error, The record says
he is a justice, the court can't be denied, but it
3 Coke 19, 3 Cr 59

Writ of error.
 may be aimed that he has taken the writ.
 This quest is unsettled (but is not
 ^{another}
 then necessary to constitute a judgment)

Can a man reverse a judgment in his
 own favour, he may, the judgment is
 for him but tis not for enough, & even
 the multiplicity appears on the record,
 where it does not, he cannot reverse
 the judgment, by multiplicity I mean the casual
 reversal

A diminution of the record is one
 not fully stated, the 2d then is a
 mandamus to the inferior

A writ of error nor takes of right & given
 if the Justice thinks there is reason for
 the writ, the J must grant it, The J
 can in his reason, but is then committed,
 If the J do not do his obvious duty he ought
 to be ~~committed~~ impeached —



Bill of Exceptions

This was not known at the time of
exception or universally practiced

This is a statement of facts signed by a
juror tending to a writ of error as
where judgment has been given on facts
that one of the party's theories is incorrect
New trials have been taken the place
of these wills 30 B 372, 10 Bar 323, 4 Bar 10

1 Coke 13

This bill can't be filed except in 6th
of records from which the writ of error
will lie and the Ct must have gen
jurisdiction

In Con this bill won't lie from Probate
for an appeal will lie always in
either law or ^{just} to statutes
10 B 327, 2 Shaw 287, 147

This bill don't lie in criminal cases
6 Chl. 249, 1 Bar 226, B & P 218, 316, 1 Vent
366. ^{Reliance} ~~Butt~~ 15

This bill always lies from some inter-
locutory matter and no other

1 B Rep 555. Cowh 101, & 9 Rep 474

This bill must contain the whole case
in fact and the opinion of the Ct on the
interlocutory ~~judgment~~ matter

12 Mod 609.

The bill must be ^{be} tendered during the sittings
or

1 Salt. 232 B & A 215.

If the bill states the facts truly, the
Judge must sign it

B & A 316, & How 110

Recitals

This is in some degree a discretionary
matter, for the Ct must judge of
the error - as when the verdict against
law, or the equity of the parties is
affected.

This power resides in all Cts of gen

New Trials jurisdiction

3 B C 388, 1 Burr 295, 6 B Rep 598 & 1000 240
1 Salt 648.

Justice is the cause of new trial

2 Wils 306, B & P 326, 1 Salt 644, 4 B Rep
459.

The effect of a new trial

It introduces the trial de novo, if judgment has been rendered, the whole proceeding is void, money is recovered by indubitable right in every thing, wherever it be, except ~~relative to the point~~

The Ct in granting a new trial will see that no man is injured, that no man shall lose his property or his claim upon it — bonds are generally given 1 Mod 2, 1 B C 392, 1 Salt 648 where there is any danger, of a man's absconding

The Ct most grant a new trial for the defendant to set up a new legal defence, if equity between the parties approves it

2110 215 als
And so if where the former decision affords
only a punishment on the Jt. for the Jt.
should make his defence. But there
is one exception, where the Jt. has
prevented the correct judgment, or sending
off which 4 Burr 2093, 4 Wm 738, 5 Dan
210

Causes of new trial

1st
Where the verdict was illegal - here
there must be no dispute about the facts
both parties agree in the facts

2 Wils 309, 1 Salk 546, 1 Wm 207

1st Wm.

2nd
Where the verdict is against Evidence
In this case the Ct are tender in granting
new trial for to the province of
the jury to judge of evidence and weight
If the verdict is grossly incorrect, a new
trial is granted, thus where one was
testified against 10, all of good character
if the jury believe one rather than ten
to no cause for a new trial, however

New Trials

the Ct may wonder, the jury often know more of witnesses than the Ct, there must get a picture to have been fraud in the jury & Bar 247, 290, 2 Burr 684, Bat 327 300 8392, 2 St 1140.

3 When the damages are excessive Here the Ct too are cautious, for the jury must estimate damages, and by their verdict they must appear to be entirely reasonable & thus prudent. There have for this cause been very few new trials. The damages must be extraneous or at the very least, there never were but three under ^{the rule} 2 Hyl 244, 106 215, Bat 327, 2 Hyl 415 3 Hyl 18, & Bar 259.

4 Where the damages are too small. Now, I never ~~know~~ ^{know} a case in torts where a new trial was granted, in contract the sum specified in the rule of damages — here gross injustice must appear. When the jury have been misinformed a new trial might be granted. 1 St 140, 2 St 940, 1051, 1 Burr 382, 1 Salt 547 & Bar 248.

When the jury are in error, the Ct will not grant a new trial, unless the damages are too small or too large, or the jury are misled by the evidence.

Where there has been misplace.

day

When the party has failed in his defense
and can show that he has another good
defense the Ct will grant a new trial

But then the party must state ^{to show} that he
could not have given the good defense
on the other issue, the new defense
must be properly set up & evidence adduced
to the Ct

3 Bur 1385, 2 Wils 184, 6 Mod 32, 222

12 Mo 643.

When a man has two defenses & either
might be given, & it appears that
the weakest has been chosen & appar-
ently a good one kept back, damages
may be claimed but the Ct won't grant
a new trial for one man shall not
worry another

But if the Ct pleads specially & then
pleads generally the Ct will grant a
new trial, this is a very narrow rule in practice

When the Ct thinks it has been a

New Trials.

more experiment, a prima facie defense
they will never hear a new defense

Where new evidence is discovered
In can application may be made
within 3 years after the judgment
This with us is the ground of
new trial. The Ct hear the new evi-
dence & often the old where ^{the Ct & heard} they don't
recollect it, and then act as orally
But when this new evidence must
be such as by all reasonably means
could not have been procured before
When the party could get more evi-
dence but thought he had enough
here if in jail, he has no new hearing
the Ct must see it is evidence newly
discovered & could not have ^{have} got before

5 Bar 254 or 2

When the witness has forgot any fact
in Ct, there is no remedy, but if the
evidence is so frigged he can't speak, a

5 Bar 252, 3 dit 352.

new trial may be granted

Per 1. v. 10

A petition for a new trial must be made during the session in con

There judgment has been obtained by bond or the officer made no return

There found in any way is the ground

the judgment, a new trial will be granted

1 Bar 241, 1 Salt 646, 3 B & 391, 2 Levin

140

8 For some mistake defect or miscon
duct of the Jury

where the Juror is interested & it is not known & decided by dec — where of the is recorded, the foreman said wrong

1 Bar 247, 7 C. 104, 1 Vent 30.

12, 9, 5 Bar 250, 218, 2 Levin 140, 1 Salt 646

2 Lis 199 & Bray 128

9th For a mistake in the opinion of the
Court in now or misdirecting the issue
this is no application to alter the verdict
but to make the real judgment
+ Bur 244, + 45, 10 Mod 119
6 Mod 642, 7 Det 53, 10 Det 262, 13th Det 717

10th
Where the Council have made
some mistake,

If the cause is lost by the negligence
of the council, the Ct grant no new trial
the party must look to his council
But where the Council has made a
mistake that all are liable to as
where evidence has been admitted
that ought not to have been, a new
trial will be granted, the error
must never arrive from gross negli-
gence

1 Salk 645, 3 Bur 1385, 2 Wils

134.

11th

Where the juries are absent that
have been summoned

and there is no jury in the

party claiming his own witness
from the adverse party detains the
witnesses, a new trial will be granted
so he be detained by any act of God
but then the evidence must be such
as will be highly important to the
case

If the witness won't come, no cause
for a new trial; he may be sued
11th Mar 101, 5 Bar 252 1 Salk 625

12th Mar 1st 091. 1 Wil 98 Pin Ch 194

12

Where the cause is lost by the evidence
of an infamous witness

In this case the party don't know the
witness, else he should in the time
object to the witness, this is a rule in
equity, so Crewe thinks it may be in
law

The infamous man, is one who is
wholly destitute of integrity

In this case the Baronet is surprised
and with no negligence when

that in the case, no new trial is granted
1 Ballh 573 J. Chan. 194, 21st 13, 19

50 Bar 252

13

Sometimes the Ct order the jury to give
a special not a gen verdict and if
they will not sometimes a new trial
is granted Ward Rep 113, 7th 1807

Wherever gen. justice is done between
the parties no new trial is granted

There are some causes of new trial
not under these heads, but 7 Penn
says he knows of none - There is a case
in 1 Burr 1049 or 5 no one in 1 Burr 1090

14 Where there has been any ille-
gal influence over the jury
by the fraud of the parties -

In here no inquiry is made con-
cerning the justice of the parties as
in all others

14th Nov 145, 5 Bar 252, 2 Cent

1791, 1st 13, 5

Where the C. will not be given
a new trial

1. A new trial upon a new trial
I think this is not law now, for a
new trial has been granted three times
6 Mass 22, 1st 691, 2 Wils 244

Where there is question of law, Latham
said say a new trial is not granted, same
6 Wils 538

No new trial is ^{not} granted on the
part of the public - except where
the criminal has practised fraud
in detaining witnesses or the judge
has misinformed on the law or
on the spirit of the facts

1st Mass 330, 1st Wils 445, 1st 889,

1 Wils 17, 3rd 59, 1st 1238, 5 Wils 20

On the part of the criminal a
new trial will always be granted

This is a question in law whether in case a
man tries to prove issues, a new trial
may be granted. I think it is not, for
in all penal actions, as well as

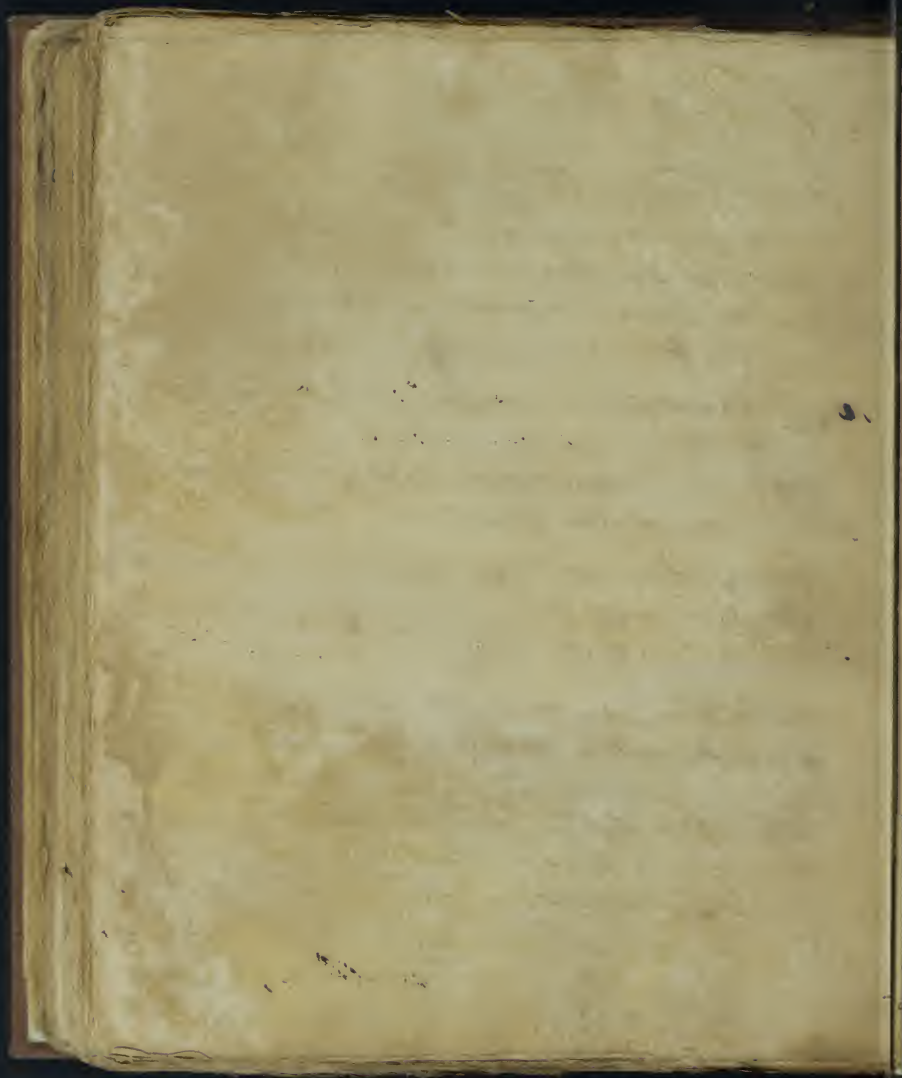
will be granted expiation here found
promising the man on the 3rd the new
surgery is a ground of ^{of} ~~of~~ his recovery, it
is no justice between the parties but
now has no right to the money gone to
the injured man may, always, turn
over back his over relief — this is a moral

10 Feb 5 Barch & Co here no rain
no trial in case of Gordon
no trial is granted for a defense
over at the time

When there are two Dpts & one is released
the other may have a new friend

2. K 326, 3 Lath 302

And I never granted to plead the statute of limitations, for there are no urgent defenses ever, the legal, and so too this defense should have been before



Notes

It has been solemnly determined
that if one of two joint obligees or, prom-
ises only, is sued, it can be taken
advantage of only by abatement

67 Dep 786 5 Dpts 119, 1 Strg 508
1 Set 130 note 5 Dec 26 11, 2 Dpts 947
1 Pound 154 - Dec 15-8
Contra 2 Strg 820

But if one of two joint obligees sues, this
may be taken advantage of in evi-
dence or by counterclaim

1 Set 130 note 1 Pound 154 note - Dec 15-8
2 Strg 1146 - 67 Dep 766

To this last rule there is an exception
in 1 Dep 874 68, that of a secret partner

In torts if one joint owner sues alone
advantage must be taken in abate-
ment. ^{ties} if not, but in evidence, the
other party may reduce the dam-
age

67 Dep 766, 1 Set 290 -

In Eng is effort only any thing may
be given in evidence to show there
is now no claim, except, statutes of
imitation and tender, then come
not to said because, the original
moral duty exists. But this is no
reason unless the above rule appl-
ies only to indictment of perjury when
it does not (under C), that it should
I think on principle, for in this case
other method of falsification: except the
statutes and tender, show there is no
ground for the law to make a
promise. ^{then there is none} But in special of perjury
a release is no better than the perjury
imitation, here at all events the
promise exists, and why can't the
it be given in evidence as well
as a release. In Common
law have no question on this

point, for here in every species
of action, every thing is good in
evidence but the acts of the Plaintiff.
hence a release can't in Con as in
Eng be given in evidence in affid

In Eng, if in Ind pt aff. pt only
that can be given in evidence which
shows there is now no right & hence
no promise, how can it appear, as
the declaration is the same whether
it be Ind or Affid Affid pt

Probably in Con, Treas may be
brought for a show in action. This
theft by Statute if taken feloniously by

When ones property is fraudulently or
wrongfully taken from him, per if
the owner chooses the law will consider
him as yet being in possession, so that
it would be theft & the first it should be
from the second, March 137 2nd Mo 1810

and this perhaps because the law will
let him consider the thief as his servant!

It is established that all or ~~any~~ trade
with the enemy is illegal, where the
articles were purchased after a declara-
tion of hostilities, hence any insu-
rance for the enemy or one's own coun-
trymen is void.

Marshall Ins-172, 1 Dec 8 9 Op 548, 9 Op 84

And if the articles were purchased before
the war, (supposed) they can be insured
only by one's own nation. For tho' the enemy
don't immediately confiscate them, it can't
help to recover them & likely they may
be taken as good prize tho' they were
not at first confiscated.

A Gen Average means, losses arising
from any cause affecting the general safe-
ty of the Ship and Cargo, Marshall on Ins 148

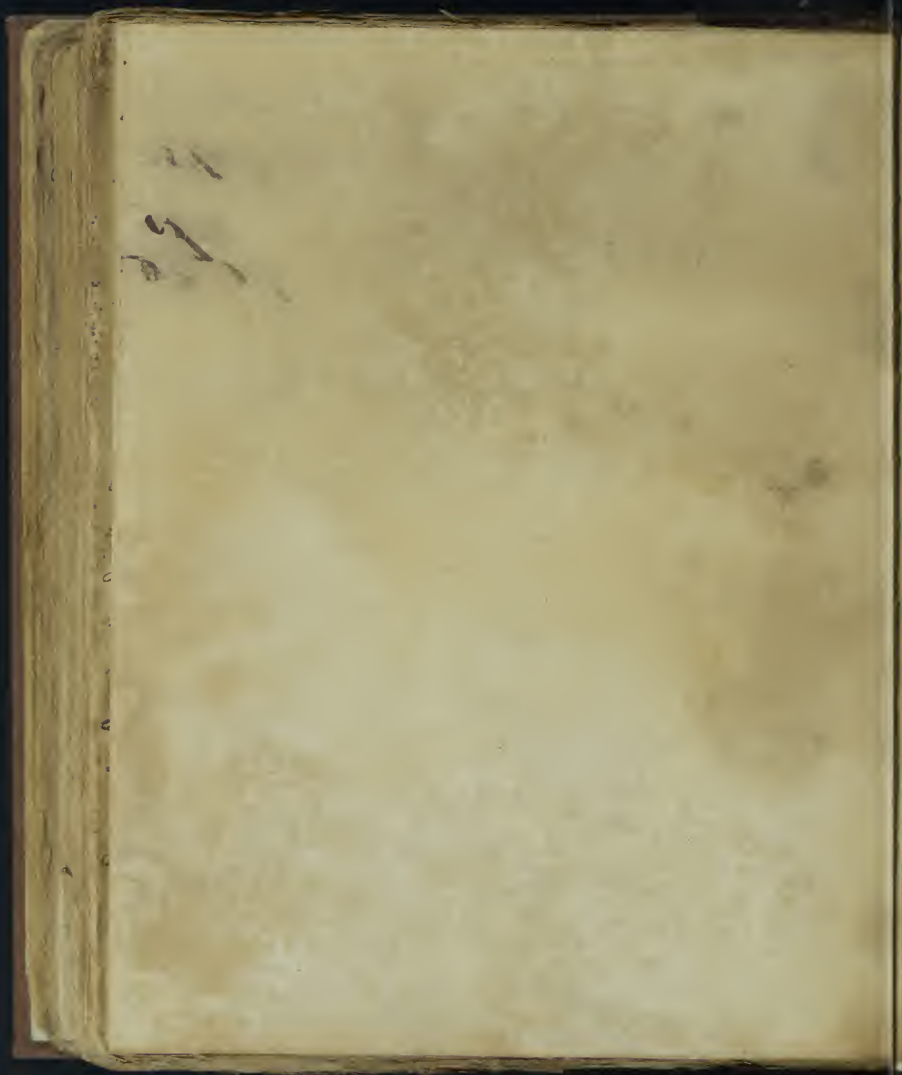
When the Plff does the Dft for a sum
due by their agreement express or implied
(as in express or implied ass't) the
ought to estimate & state the sum
he wishes to claim. for if he does on
an express agreement to pay a certain
mentioned sum, the sum must be
mentioned as a part of the agree-
ment. as if the sum is estimated by
the law or rather Jury, as if what the
thing is worth or by reference to some
thing else as so much as such man got
is to receive it should be mentioned
that the case may appeal to be within
the jurisdiction ^{of the Ct} and secondly if the
valuation of the ^{of the} Dft is correct that
the Dft need not adduce evidence to
show the value or if not, that he may
but verdict will cure the omission
for it will then be presumed that the
Ct have jurisdiction & that the jury
have found the right sum in damages,
Lewis v. Pratt 47, 8, 10 - - -

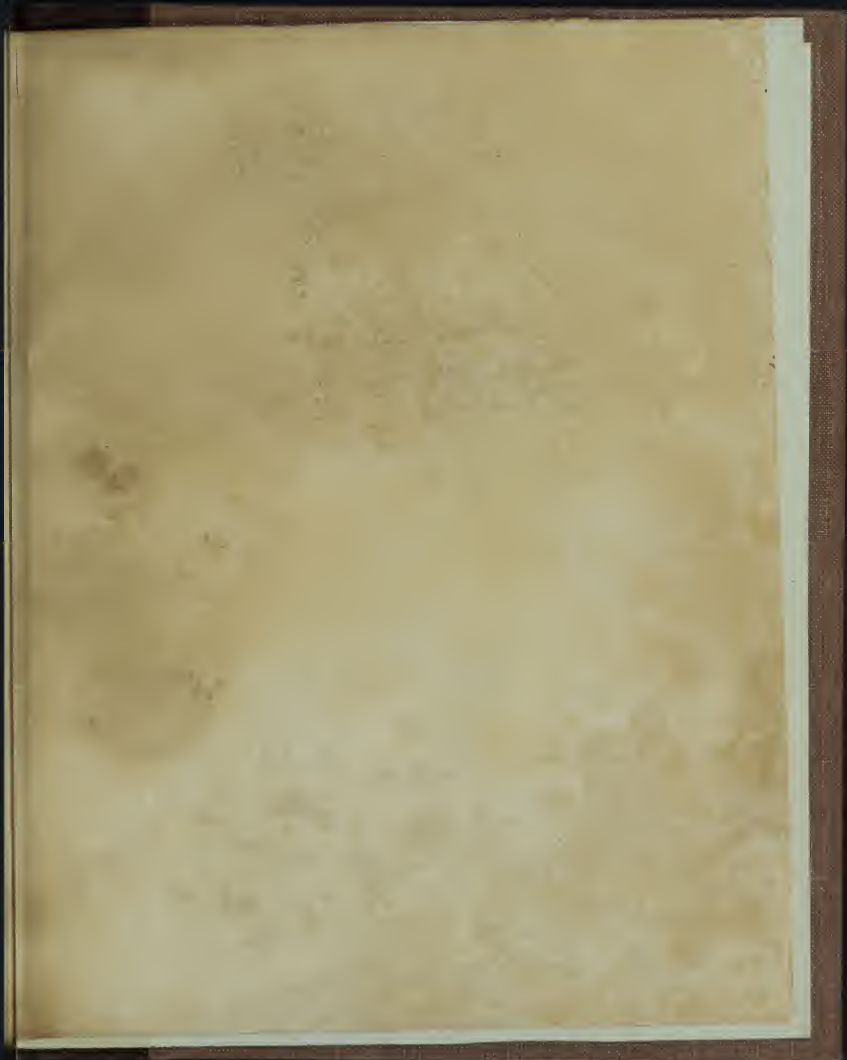
But we not so much to ascertain the value
of the consideration ~~arising~~ from the ~~plea~~
for this is more matter of inducement.

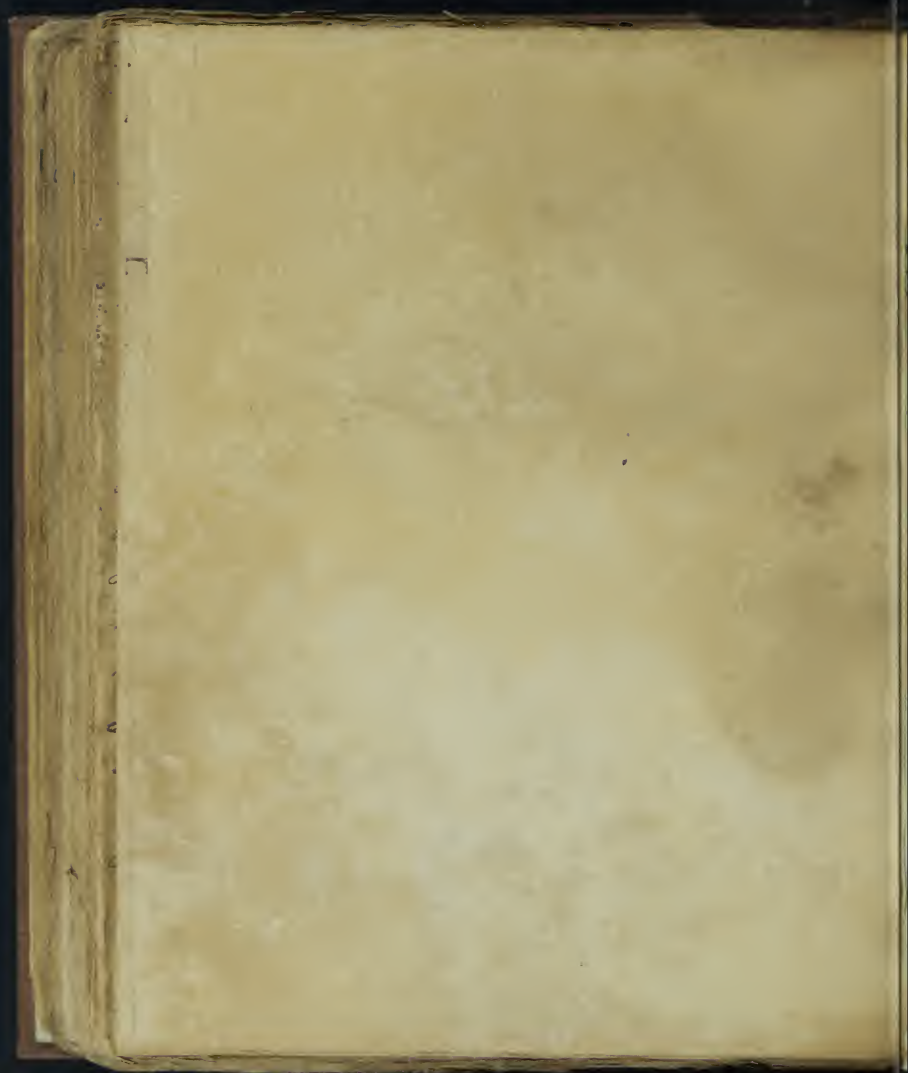
Law of Sept 40 to 50

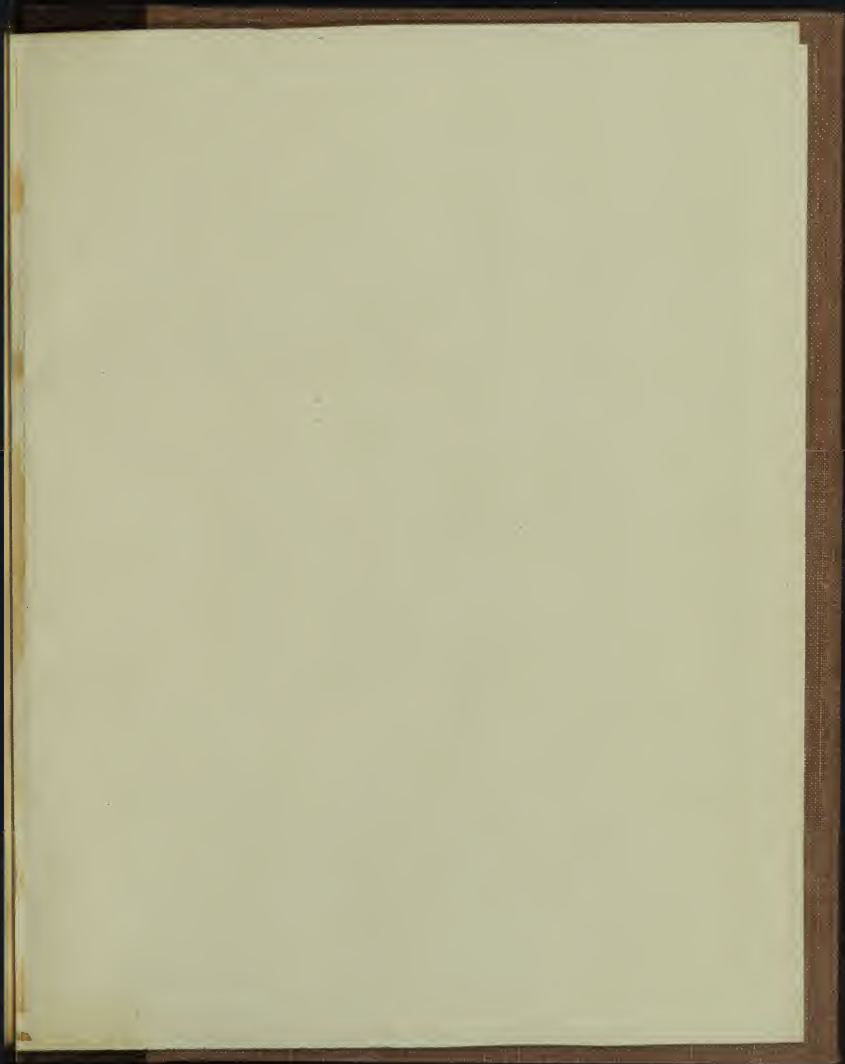
Where the contract suits upon, contains on
the face of it the rule of damages, i.e. where
a certain sum by the contract is due, or the
valuation of the consideration from the ~~Def~~
has been made in money, if the court please in
consideration, the value of his debt being
ascertained by the parties. The ~~plea~~ cannot
open or lay his damages beyond the sum
set by the rule, merely for the purpose of
carrying the case before a higher tribu-
nal — But where there is no rule of
damages set by the contract, the ~~plea~~
may estimate his damages at what he chooses
J Williams, in Com.

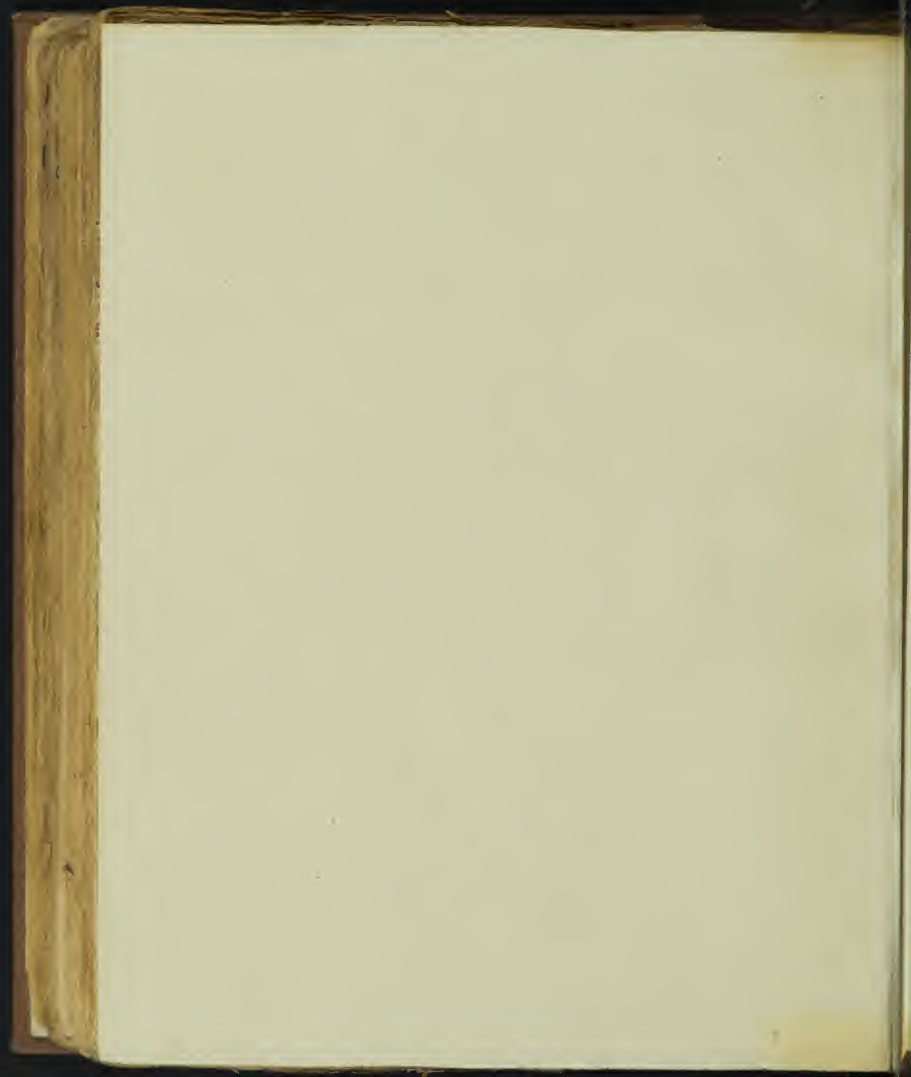
Received for cash paid him over his note
of Francis Pratt + Principle of 50.50
for his note in currency
for the same and for his note
J. 2, 50
70-20

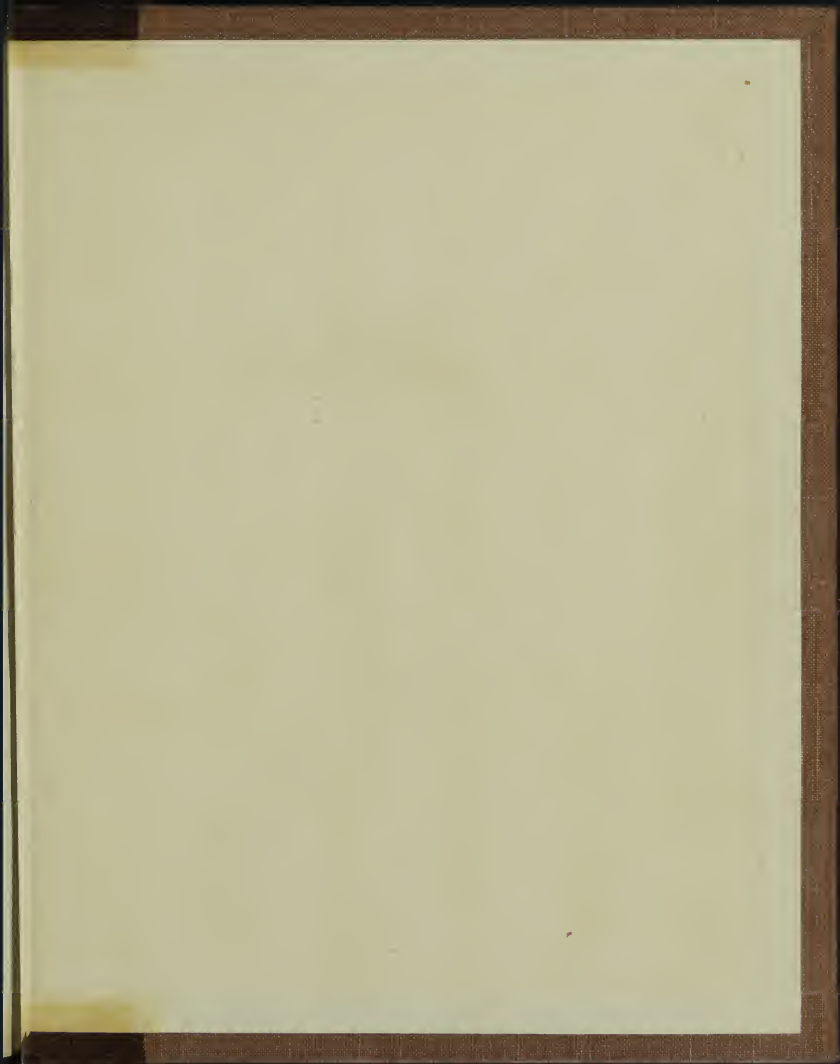


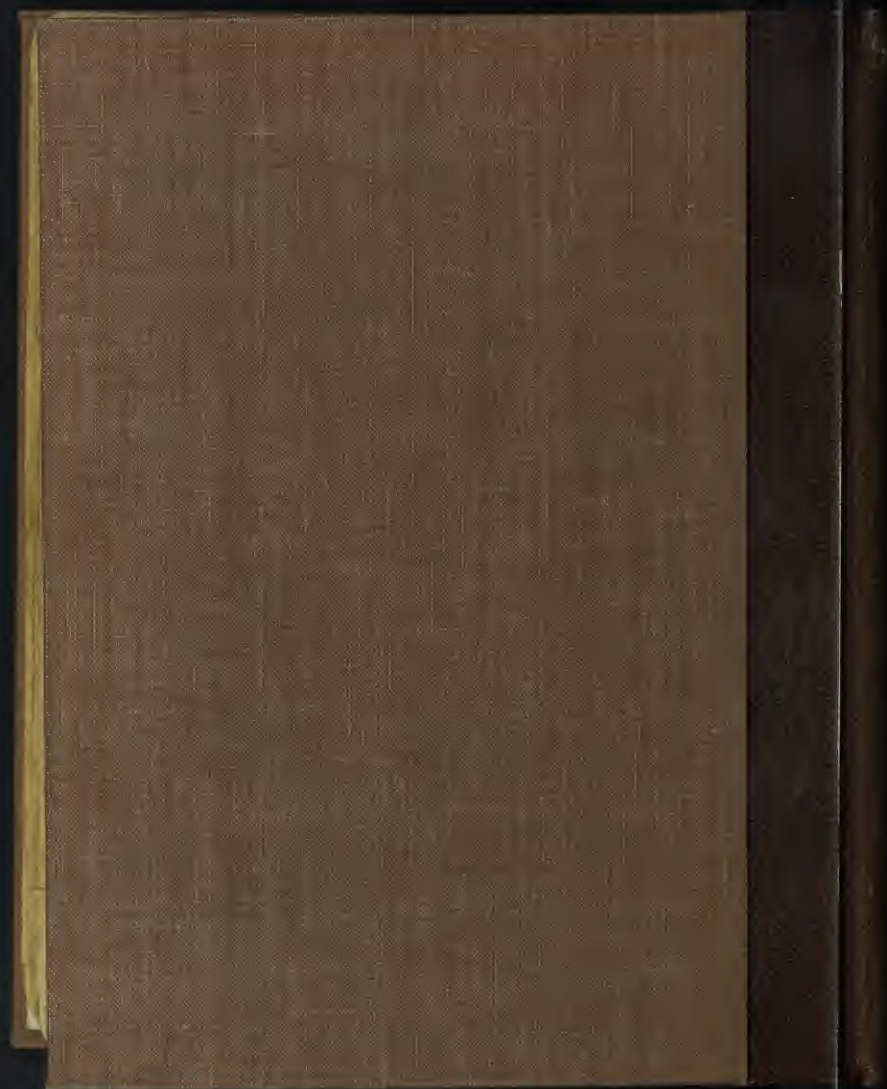












LITCHFIELD
LAW SCHOOL
MANUSCRIPT
NOTES
BY
REEVE & GOULD

VOL. IV
1807-1809